The Ontario Securities Commission

OSC Bulletin

December 9, 2011

Volume 34, Issue 49

(2011), 34 OSCB

The Ontario Securities Commission administers the
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)

The Ontario Securities Commission
Cadillac Fairview Tower
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints:	Fax: 416-593-8122
Market Regulation Branch:	Fax: 416-595-8940
Compliance and Registrant Regulation Branch	
- Compliance:	Fax: 416-593-8240
- Registrant Regulation:	Fax: 416-593-8283
Corporate Finance Branch	
- Team 1:	Fax: 416-593-8244
- Team 2:	Fax: 416-593-3683
- Team 3:	Fax: 416-593-8252
- Insider Reporting:	Fax: 416-593-3666
- Mergers and Acquisitions:	Fax: 416-593-8177
Enforcement Branch:	Fax: 416-593-8321
Executive Offices:	Fax: 416-593-8241
General Counsel's Office:	Fax: 416-593-3681
Investment Funds Branch:	Fax: 416-593-3699
Office of the Secretary:	Fax: 416-593-2318

THOMSON REUTERS

The OSC Bulletin is published weekly by Carswell, a Thomson Reuters business, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of $649 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$175
Outside North America	$400

Single issues of the printed Bulletin are available at $20 per copy as long as supplies are available.

Carswell also offers every issue of the Bulletin, from 1994 onwards, fully searchable on S*ecuritiesSource*™, Canada's pre-eminent web-based securities resource. *SecuritiesSource*™ also features comprehensive securities legislation, expert analysis, precedents and a weekly Newsletter. For more information on *SecuritiesSource*™, as well as ordering information, please go to:

http://www.westlawecarswell.com/SecuritiesSource/News/default.htm

or call Carswell Customer Relations at 1-800-387-5164 (416-609-3800 Toronto & Outside of Canada).

Claims from *bona fide* subscribers for missing issues will be honoured by Carswell up to one month from publication date.

Space is available in the Ontario Securities Commission Bulletin for advertisements. The publisher will accept advertising aimed at the securities industry or financial community in Canada. Advertisements are limited to tombstone announcements and professional business card announcements by members of, and suppliers to, the financial services industry.

ISSN 0226-9325

THOMSON REUTERS

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Relations
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
Fax 1-416-298-5082
www.carswell.com
Email www.carswell.com/email

Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings before the Ontario Securities Commission

December 9, 2011

CURRENT PROCEEDINGS

BEFORE THE

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
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Telephone: 416-597-0681 Telecopier: 416-593-8348

CDS **TDX 76**

Late Mail depository on the 19th Floor until 6:00 p.m.

- -

THE COMMISSIONERS

Howard I. Wetston, Chair	—	HIW
James E. A. Turner, Vice Chair	—	JEAT
Lawrence E. Ritchie, Vice Chair	—	LER
Mary G. Condon, Vice Chair	—	MGC
Sinan O. Akdeniz	—	SOA
James D. Carnwath	—	JDC
Margot C. Howard	—	MCH
Sarah B. Kavanagh	—	SBK
Kevin J. Kelly	—	KJK
Paulette L. Kennedy	—	PLK
Edward P. Kerwin	—	EPK
Vern Krishna	—	VK
Christopher Portner	—	CP
Judith N. Robertson	—	JNR
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

December 12-15, 2011 10:00 a.m.	**Marlon Gary Hibbert, Ashanti Corporate Services Inc., Dominion International Resource Management Inc., Kabash Resource Management, Power to Create Wealth Inc. and Power to Create Wealth Inc. (Panama)** s. 127 J. Lynch/S. Chandra in attendance for Staff Panel: JDC
December 12-16, 2011 10:00 a.m.	**L. Jeffrey Pogachar, Paola Lombardi, Alan S. Price, New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., 2126375 Ontario Inc., 2108375 Ontario Inc., 2126533 Ontario Inc., 2152042 Ontario Inc., 2100228 Ontario Inc., and 2173817 Ontario Inc.** s. 127 M. Britton in attendance for Staff Panel: EPK/PLK
December 12-13, 2011 10:00 a.m.	**Investment Industry Regulatory Organization of Canada v. TD Securities Inc., Kenneth Nott, Aidin Sadeghi, Christopher Kaplan, Robert Nemy and Jake Poulstrup** S. 21.7 D. Ferris in attendance for Staff Panel: MGC/JNR

December 15, 2011 9:30 a.m.	**Global Energy Group, Ltd., New Gold Limited Partnerships, 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: CP
December 16, 2011 9:30 a.m.	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Vaillancourt in attendance for Staff Panel: JEAT
December 19, 2011 9:00 a.m.	**New Hudson Television Corporation, New Hudson Television L.L.C. & James Dmitry Salganov** s. 127 C. Watson in attendance for Staff Panel: MGC
December 19, 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/C. Watson in attendance for Staff Panel: VK/EPK
December 19, 2011 10:00 a.m.	**Bruce Carlos Mitchell** s. 127 C. Johnson in attendance for Staff Panel: MGC
December 21, 2011 10:00 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt in attendance for Staff Panel: PLK
December 21, 2011 10:00 a.m.	**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: VK/MCH
December 21, 2011 10:00 a.m.	**American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Denver Gardner Inc., Sandy Winick, Andrea Lee McCarthy, Kolt Curry and Laura Mateyak** s. 127 J. Feasby in attendance for Staff Panel: CP
December 21, 2011 11:00 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 3-10, 2012 10:00 a.m.	**Simply Wealth Financial Group Inc., Naida Allarde, Bernardo Giangrosso, K&S Global Wealth Creative Strategies Inc., Kevin Persaud, Maxine Lobban and Wayne Lobban** s. 127 and 127.1 C. Johnson in attendance for Staff Panel: JDC
January 9, 2012 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: CP/PLK
January 11, 2012 10:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (Also Known As Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 H. Craig/C. Rossi in attendance for Staff Panel: CP
January 12-13, 2012 10:00 a.m.	**Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, John Colonna, Pasquale Schiavone, and Shafi Khan** s. 127(7) and 127(8) J. Feasby in attendance for Staff Panel: EPK
January 12, March 28-30, and April 3, 2012 10:00 a.m.	**Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments** s. 127 M. Britton in attendance for Staff
January 16 and March 26, 2012 11:00 a.m.	Panel: VK/JDC
January 18-23, 2012 10:00 a.m.	**Peter Beck, Swift Trade Inc. (continued as 7722656 Canada Inc.), Biremis, Corp., Opal Stone Financial Services S.A., Barka Co. Limited, Trieme Corporation and a limited partnership referred to as "Anguilla LP"** s. 127 B. Shulman in attendance for Staff Panel: TBA
January 18-30 and February 1-10, 2012 10:00 a.m.	**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
January 24, 2012 10:00 a.m.	**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: EPK/PLK

January 26-27, 2012 10:00 a.m.	**Empire Consulting Inc. and Desmond Chambers** s. 127 D. Ferris in attendance for Staff Panel: TBA
January 30, 2012 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: JEAT
February 1, 2012 10:00 a.m.	**Ciccone Group, Medra Corp. (a.k.a. Medra Corporation), 990509 Ontario Inc., Tadd Financial Inc., Cachet Wealth Management Inc., Vincent Ciccone (a.k.a. Vince Ciccone), Darryl Brubacher, Andrew J Martin, Steve Haney, Klaudiusz Malinowski, and Ben Giangrosso** s. 127 M. Vaillancourt in attendance for Staff Panel: TBA
February 1-13, February 15-17 and February 21-23, 2012 10:00 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: TBA
February 2-3, 2012 10:00 a.m.	**Zungui Haixi Corporation, Yanda Cai and Fengyi Cai** s. 127 J. Superina in attendance for Staff Panel: CP
February 15-17, 2012 10:00 a.m.	**Maitland Capital Ltd., Allen Grossman, Hanoch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Dianna Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA

February 29 – March 12 and March 14- 21, 2012 10:00 a.m.	**Ameron Oil and Gas Ltd., MX-IV Ltd., Gaye Knowles, Giorgio Knowles, Anthony Howorth, Vadim Tsatskin, Mark Grinshpun, Oded Pasternak, and Allan Walker** s. 127 H. Craig/C. Rossi in attendance for Staff Panel: TBA
March 8, 2012 10:00 a.m.	**Energy Syndications Inc., Green Syndications Inc., Syndications Canada Inc., Land Syndications Inc. and Douglas Chaddock** s. 127 C. Johnson in attendance for Staff Panel: CP
March 12, March 14-26, and March 28, 2012 10:00 a.m.	**David M. O'Brien** s. 37, 127 and 127.1 B. Shulman in attendance for Staff Panel: TBA
April 2-5, April 9, April 11-23 and April 25-27, 2012 10:00 a.m.	**Bernard Boily** s. 127 and 127.1 M. Vaillancourt/U. Sheikh in attendance for Staff Panel: TBA
April 18, 2012 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
April 30 –May 7, May 9-18 and May 23-25, 2012 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc., Sylvan Blackett, 1778445 Ontario Inc. and Willoughby Smith** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: CP
May 9-18 and May 23-25, 2012 10:00 a.m.	**Crown Hill Capital Corporation and Wayne Lawrence Pushka** s. 127 A. Perschy in attendance for Staff Panel: TBA
June 4, June 6-18, and June 20-26, 2012 10:00 a.m.	**Peter Sbaraglia** s. 127 J. Lynch in attendance for Staff Panel: TBA
September 4-10, September 12-14, September 19-24, and September 26 – October 5, 2012 10:00 a.m.	**Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg** s. 127 H Craig in attendance for Staff Panel: TBA
September 21, 2012 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 H. Craig 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 **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/C. Rossi 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 **Shane Suman and Monie Rahman**

s. 127 and 127(1)

C. Price in attendance for Staff

Panel: TBA

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

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 **Abel Da Silva**

s. 127

C. Watson in attendance for Staff

Panel: TBA

TBA

Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)

s. 127

T. Center/D. Campbell in attendance for Staff

Panel: TBA

TBA

Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin

s. 127

T. Center in attendance for Staff

Panel: TBA

TBA

Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.

s. 127

S. Horgan in attendance for Staff

Panel: TBA

TBA

Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan

s. 127

H. Craig/C.Rossi in attendance for Staff

Panel: TBA

TBA

Paul Donald

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

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: TBA

TBA

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

TBA

Goldpoint Resources Corporation, Pasqualino Novielli also known as Lee or Lino Novielli, Brian Patrick Moloney also known as Brian Caldwell, and Zaida Pimentel also known as Zaida Novielli

s. 127(1) and 127(5)

C. Watson in attendance for Staff

Panel: TBA

TBA

Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins

s. 127

C. Rossi in attendance for Staff

Panel: TBA

TBA

Ground Wealth Inc., Armadillo Energy Inc., Paul Schuett, Doug DeBoer, James Linde, Susan Lawson, Michelle Dunk, Adrion Smith, Bianca Soto and Terry Reichert

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA

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)

H. Craig in attendance for Staff

Panel: TBA

TBA

Heir Home Equity Investment Rewards Inc.; FFI First Fruit Investments Inc.; Wealth Building Mortgages Inc.; Archibald Robertson; Eric Deschamps; Canyon Acquisitions, LLC; Canyon Acquisitions International, LLC; Brent Borland; Wayne D. Robbins; Marco Caruso; Placencia Estates Development, Ltd.; Copal Resort Development Group, LLC; Rendezvous Island, Ltd.; The Placencia Marina, Ltd.; and The Placencia Hotel and Residences Ltd.

s. 127

A. Perschy / B. Shulman in attendance for Staff

Panel: TBA

TBA

Sino-Forest Corporation, Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung

s. 127

A. Perschy/H. Craig in attendance for Staff

Panel: TBA

TBA

Normand Gauthier, Gentree Asset Management Inc., R.E.A.L. Group Fund III (Canada) LP, and CanPro Income Fund I, LP

s. 127

B. Shulman in attendance for Staff

Panel: TBA

TBA

Vincent Ciccone and Medra Corp.

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA

FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun

s. 127

C. Price in attendance for Staff

Panel: CP

TBA

New Found Freedom Financial, Ron Deonarine Singh, Wayne Gerard Martinez, Pauline Levy, David Whidden, Paul Swaby and Zompas Consulting

s. 127

A. Heydon in attendance for Staff

Panel: TBA

TBA **MBS Group (Canada) Ltd., Balbir Ahluwalia and Mohinder Ahluwalia**

s. 37, 127 and 127.1

C. Rossi in attendance for staff

Panel: TBA

TBA **2196768 Ontario Ltd carrying on business as Rare Investments, Ramadhar Dookhie, Adil Sunderji and Evgueni Todorov**

s. 127

D. Campbell in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

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

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

1.1.2 The Investment Funds Practitioner – December 2011

December 2011

OSC
THE INVESTMENT FUNDS PRACTITIONER

What is the Investment Funds Practitioner?

The Practitioner is an overview of recent issues arising from applications for exemptive relief, prospectuses, and continuous disclosure documents that investment funds file with the OSC. It is intended to assist investment fund managers and their staff or advisors who regularly prepare public disclosure documents and applications for exemptive relief on behalf of investment funds.

The Practitioner is also intended to make you more broadly aware of some of the issues we have raised in connection with our reviews of documents filed with us and how we have resolved them. We hope that fund managers and their advisors will find this information useful and that the Practitioner can serve as a useful resource when preparing applications and disclosure documents.

The information contained in the Practitioner is based on particular factual circumstances. Outcomes may differ as facts change or as regulatory approaches evolve. We will continue to assess each case on its own merits.

The Practitioner has been prepared by staff of the Investment Funds Branch and the views it expresses do not necessarily reflect the views of the Commission or the Canadian Securities Administrators.

Request for Feedback

This is the sixth edition of the Practitioner. Previous editions of the Practitioner are available on the OSC website www.osc.gov.on.ca under Investment Funds – Related Information. We welcome your feedback and any suggestions for topics that you would like us to cover in future editions. Please forward your comments by email to investmentfunds@osc.gov.on.ca.

Applications for Relief

Managed Accounts

We continue to see applications from portfolio managers seeking exemptive relief from the prospectus requirement in the Act to permit the distribution of pooled fund securities to fully managed accounts held by clients who do not qualify as accredited investors.

A portfolio manager acting on behalf of a fully managed account in Ontario is not an accredited investor when purchasing securities of an investment fund. As such, a managed account in Ontario may only invest in an investment fund on an exempt basis where the holder of the account either personally qualifies as an "accredited investor" as defined in NI 45-106 or invests $150,000 in the investment fund in accordance with the $150,000 minimum investment amount exemption in section 2.10 of NI 45-106.

In the past, the Commission has granted exemptive relief from these requirements to accommodate exempt distributions in connection with the provision of portfolio management services to "secondary clients". These "secondary clients" are not accredited investors but are typically accepted because of a relationship between the "secondary client" and the "primary client" who qualifies as an accredited investor. The Commission has granted the exemptions primarily on the basis that the "secondary clients" are an incidental part of the applicant's asset management business, which is primarily focused on accredited investor clients.

Increasingly, we have received applications for exemptive relief to permit the distribution of pooled fund securities to fully managed accounts which are not required to have significant asset levels. More recently, the Commission has narrowed the relief to accommodate "secondary clients" only in situations where the vast majority of the portfolio manager's clients are accredited investors and where the portfolio manager has established a significant asset threshold for its managed accounts.[1]

In our analysis of these applications, staff continue to focus on (i) whether the principal business activity of the portfolio manager is to provide asset management services to its clients, (ii) the minimum account thresholds established by the portfolio manager, (iii) whether there is a bona fide portfolio management services relationship between the portfolio manager and each client, (iv) whether there is a close relationship between the "primary" managed account holders and the "secondary" account holders

[1] Refer to *In the Matter of K.J. Harrison & Partners Inc.* dated August 25, 2011, *In the Matter of Rae & Lipskie Investment Counsel Inc. et al.* dated August 24, 2011, and to the November 30, 2007 issue of The Practitioner for prior discussion of this issue.

regarding which the portfolio manager is seeking exemptive relief, and (v) the past experience and expertise of the portfolio manager in overseeing and managing managed accounts.

We have been hesitant to recommend exemptive relief when it appears that pooled funds may be distributed primarily to investors that would not otherwise have access to pooled fund securities under NI 45-106. Absent amendments to NI 45-106 to allow fully managed accounts in Ontario to qualify as "accredited investors" for purchases of pooled fund securities, we will generally only recommend exemptive relief in situations where there is a close relationship (e.g. close familial relationship) between "primary" managed account clients and "secondary" account clients and where the portfolio manager has established a significant minimum account level (typically $500,000 or more) for its managed account clients.

Requests for Confidentiality

Section 5.2(1)(a)(vi) of National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* specifies that exemptive relief applications should set out any requests for confidentiality. Section 5.4 of the Policy specifies that the application should also provide substantive reasons for the confidentiality request. We have seen a few applications initially marked as 'confidential' where substantive reasons for the confidentiality request have not been provided.

We remind filers to include confidentiality requests in their initial application along with submissions in support of the request. Staff will consider these requests on a case-by-case basis. Absent submissions in the initial application, the application will be made public.

Subadviser Conflicts of Interest

Recently, we have received a few novel applications in which filers have requested interfund trading or principal trading relief on behalf of both the filer, as portfolio manager, and on behalf of third party subadvisers to the filer's funds. Prior to NI 31-103, we did not receive applications for similar relief specifically from subadvisers.

Where the filer for exemptive relief is the manager and portfolio manager, our view is that separate relief is not needed on behalf of the subadviser as long as the subadviser operates on the same conditions applicable to the lead portfolio manager pursuant to any conflict relief granted specifically to the lead portfolio manager.

NI 81-107 imposes the obligation on a fund manager to identify conflict of interest matters and to refer them to the Independent Review Committee (IRC) of the manager's funds. Since the implementation of NI 81-107, staff's view has been that a fund manager should have in place policies and procedures to identify, monitor, and to address conflicts at the subadviser level. To the extent such matters raise a conflict of interest under section 1.2 of NI 81-107, the manager is responsible for referring such conflicts to the IRC of the funds.

Pooled Fund on Fund Relief

Recently, two filers were granted relief from certain conflict prohibitions in securities legislation to permit pooled funds to invest in underlying pooled funds, NI 81-102 funds and commodity pools managed by a common manager.[2] The conditions in these decisions are similar to those set out in section 2.5 of NI 81-102.

In recognition of the investment parameters on which the fund-on-fund exemption in NI 81-102 is premised, staff asked for additional conditions and representations that state: (i) the securities of the top and underlying pooled funds are valued and redeemable on a regular basis, either weekly or monthly, (ii) each top fund and underlying fund have matching or similar valuation and redemption dates, (iii) an underlying pooled fund will be managed to provide sufficient liquidity to fund redemptions in the ordinary course, (iv) top fund investors will receive the disclosure in some form prescribed by Form 81-101F1, Part B, Item 7(1)(c), and, (v) if applicable, top fund investors will be provided with disclosure that certain officers or directors of the manager or associates may have a significant interest in the underlying fund(s) and disclosure of potential conflicts of interest that may arise from such relationships.

Prospectuses

Prepaid Forwards

Staff are currently considering the use of forward purchase agreements (prepaid forwards) by both mutual funds and non-redeemable investment funds (closed-end funds). In the prepaid forward structure, the fund proposes to pay an amount at the outset of the agreement, that could be substantially all of the fund's assets, to a counterparty. The counterparty is obligated to deliver the performance of a reference fund to the fund at a later date.

---

2 *In the Matter of RBC Global Asset Management Inc.* dated October 20, 2011 and *In the Matter of Fiera Sceptre Inc.* dated October 17, 2011.

Among the issues staff are examining are (i) the fund's exposure to the counterparty and the credit risk of the counterparty, and (ii) how the transfer of substantially all of the fund's assets to a counterparty changes the nature of the fund from a portfolio of diversified holdings to a concentrated investment in one asset that is essentially an unsecured obligation of the counterparty. We are concerned that these risks are inconsistent with the expectations of investors in an investment fund.

Generally, we are of the view that it is not appropriate for mutual funds to use prepaid forwards and more recently, staff have not recommended this exemptive relief for mutual funds.

For closed-end funds, which do not require exemptive relief to use prepaid forwards, staff remain concerned with the use of prepaid forwards and we are continuing to consider whether it is appropriate from a public policy perspective for closed-end funds to enter into this type of agreement.

As a result, staff have been prepared to recommend a prospectus receipt for closed-end funds only if the risks identified above are mitigated. One way filers have addressed counterparty exposure and credit risk has been by requiring the counterparty to post collateral for the benefit of the fund.[3] In such instances, staff will generally expect, at a minimum, that: (i) the amount of collateral be equal to 100% of the mark to market value of the underlying exposure, (ii) the amount of collateral be reset on a weekly basis back to 100%, (iii) the collateral consist of liquid securities with no more than 10% being securities of one issuer (both at the outset of the agreement and upon each reset), (iv) the fund have a perfected first priority security interest in the collateral, and (v) the collateral be free and clear of all claims, other than those in favour of the fund.

As an alternative, closed-end funds may wish to consider using a "conventional" forward structure with an appropriate settlement mechanism to ensure that the fund's exposure to the counterparty is not excessive. We recommend filers look to the settlement mechanism in section 2.7(4) of NI 81-102 as a starting point.

In all instances, staff expect the prospectus for a closed-end fund that proposes to use a prepaid forward to include a description of the terms of the prepaid forward under the heading "Overview of the Investment Structure" and a textbox on the cover page to inform investors of the fund's counterparty exposure and related risks. We also expect that the use of a prepaid forward structure and related risks will be given prominence in green sheets and marketing materials.

Staff will continue to consider other investment structures that rely on over the counter derivatives which raise concerns similar to the prepaid forward structure, including forwards where the fund deposits substantially all of its assets into an interest bearing account at the outset of the agreement.

Multiple Lapse Dates

Some filers have recently sought to consolidate several long form investment fund prospectuses with different lapse dates into a single multi-fund prospectus. We remind filers that the lapse date for a consolidated prospectus will be the earliest lapse date among the prospectuses being consolidated. Filers who would like to preserve the original lapse date for an investment fund should keep the prospectus of that fund as a stand-alone prospectus.

Multiple ETF Prospectuses

We remind filers of staff's expectation that investment funds offered in a long form prospectus should have substantially similar investment objectives.

The issue arose in the context of a long form prospectus which contained multiple exchange-traded funds (ETFs). We advised the filer that (i) a long form prospectus should contain only groupings of exchange-traded funds which have *similar* investment objectives and strategies, and (ii) it would not be appropriate for a prospectus to contain large numbers of different types of exchange-traded funds (e.g. index ETFs, commodity ETFs, actively managed ETFs, etc.) in one long form prospectus.

As set out in OSC Staff Notice 81-714 *Compliance with Form 41-101F2 – Information Required In An Investment Fund Prospectus*, staff's view is that when the number of investment funds incorporated in a prospectus interferes with full, true and plain disclosure, staff will request that the fund manager file separate prospectuses for its investment funds.

Disclosure of Management Fees

Some mutual funds have management fees that are payable directly by securityholders and may vary from securityholder to securityholder. This makes it difficult for amounts to be disclosed in the fund's prospectus. To address this issue, we've been asking filers to provide, in the simplified prospectus and Fund Facts (as noted further below), as much disclosure as possible about these management fees to be paid by securityholders, including (i) the highest possible rate or range of those management fees, as contemplated by Instruction 5, Part A, Item 8.1 of Form 81–101F1, or (ii) how fees applicable to that

[3] Refer to recent prospectuses for *Moneda LatAm Corporate Bond Fund* dated October 26, 2011 and *Symphony Floating Rate Senior Loan Fund* dated October 19, 2011.

series compare to those applicable to other series offered by the same fund. These requests have typically been made with reference to series I or O securities of a mutual fund offered to institutional investors.

Disclosure of Trailing Commission Payments

Staff have begun to consider how trailing commissions are described in disclosure documents. We understand that some investors who purchase mutual funds through a discount brokerage may not expect or understand that their discount broker receives trailing commissions. As a starting point, we are considering whether the current disclosure sufficiently highlights the fact that discount brokers receive trailing commissions. In our prospectus reviews, we are asking fund managers whether they pay the same trailing commissions to discount brokers and full service dealers. If they do, we are requesting that the "Dealer Compensation" section of the simplified prospectus clarify that trailing commissions are also paid to discount brokers, by including disclosure stating that the manager also pays trailing commissions to the discount broker for securities purchased through a discount brokerage account.

Publication of Staff Notice

We issued OSC Staff Notice 81-715 *Cross Listings by Foreign Exchange-Traded Funds* on August 26, 2011. The Notice sets out the views of staff regarding the application of prospectus requirements and investment fund product regulation in connection with cross-listings on an exchange in Ontario by foreign exchange-traded mutual funds. The Notice has been posted to the OSC website at www.osc.gov.on.ca.

Continuous Disclosure

Financial Statements Filed Before Filing Deadline

We remind filers that if financial statements are filed earlier than the required filing deadline, the accompanying management reports of fund performance (MRFPs) for those investment funds must also be filed at the same time. Since the MRFP may be obtained separately from the financial statements as a stand-alone document, the financial highlights in the MRFP should include additional information that may assist investors in understanding the information provided in the financial statements. A key element of the MRFPs is the Management Discussion of Fund Performance which provides an analysis and explanation that is designed to supplement an investment fund's financial statements.

Exemptive Relief and Inquiries Related to Fund Facts

Since July 8, 2011, securities legislation has required any mutual fund that files a preliminary or pro forma simplified prospectus to also file Fund Facts for every class or series of the fund. We discuss below some of the recent issues we've encountered concerning Fund Facts.

Fund Codes

We have received several applications for relief to permit the use of fund codes in the Fund Facts. Filers have requested this exemption from the form requirements of 81-101F3 under Part 6 of NI 81-101 by application letter filed with the applicable prospectus. While relief for this purpose is typically evidenced by receipt, the application process must still be observed. This involves review and consideration of the application by staff; a recommendation being made to the decision maker; and the signing of an approval letter if the decision maker agrees to the relief.

Relief to Permit Early Delivery of Fund Facts

Exemptive relief was recently granted to a group of fund managers and a representative dealer to permit dealers to satisfy the delivery requirement under section 71(1) of the Act (the Delivery Requirement) by sending or delivering the most recently filed Fund Facts instead of the simplified prospectus.[4]

The relief includes the following key conditions:

- investor rights of withdrawal and rescission currently provided under section 71(2) and section 133 of the Act are preserved;
- a separate notice setting out these investor rights must be sent or delivered to investors along with the Fund Facts;

[4] *In the Matter of National Bank Securities Inc.* dated October 26, 2011*; In the Matter of BMO Nesbitt Burns Inc*. dated October 11, 2011; *In the Matter of I.G. Investment Management* dated September 16, 2011; *In the Matter of Value Partners Investments Inc.* dated September 16, 2011; and *In the Matter of Representative Dealers* dated August 26, 2011.

- all Fund Facts delivered in reliance on the relief must comply with Form 81-101F3 *Contents of Fund Facts Document*;

- prior to dealer reliance on the relief, dealers must be provided with, and return their written acknowledgement of, the conditions of the relief;

- fund managers must keep records of all dealers which intend to rely on the relief and must provide quarterly updates on the list of relying dealers to the fund manager's principal regulator; and

- the relief terminates on the earlier of (a) 6 months from any CSA notice stating that the relief granted may no longer be relied upon, and (b) the coming into force of any legislation or rule relating to the sending or delivery of the Fund Facts to satisfy the Delivery Requirement.

Disclosure of Expected Mergers in the Fund Facts

Form 81-101F3 contemplates prescribed headings in the Fund Facts. We recently granted relief from the prescribed requirements of the Fund Facts form to permit disclosure about an upcoming merger of a fund.[5] We remind filers to consider whether *material* changes to a mutual fund require additional disclosure or changes to the Fund Facts.

Fund Facts and Converting Funds

We remind filers that applications to use past performance in the simplified prospectus should also contemplate the use of past performance of the fund in the Fund Facts as appropriate. [6]

Risk Methodology

We remind filers that the risk methodology used to identify the investment risk level of a fund must be disclosed in the Fund Facts and the simplified prospectus. It must also be made available to investors upon request.

Staff's view is that in describing the fund manager's risk methodology under Item 9.1(1) of Part B to Form 81-101F1, the fund manager must provide a brief description or summary of the investment risk classification methodology used, and not simply identify what particular methodology is used. We have been asking filers, in the context of our prospectus reviews, to confirm that the disclosure in the simplified prospectus complies with this requirement. Consistent with Item 9.1(3) of Part B to Form 81-101F1, we note staff's expectation is that if an investor requests a copy of the methodology, it will be provided.

Disclosure of Separately Negotiated Fees

Staff have been raising comments on the need for appropriate disclosure in the Fund Facts on fees that are negotiated separately between the investor and the dealer or fund manager. Filers should note that this information must be included in the Fund Facts under the appropriate heading.

- *Advisory fees payable to the dealer (Series F)*

  If an investor is required to participate in a fee-based arrangement with their dealer in order to be eligible to purchase a particular class or series of the mutual fund, staff expect that the applicable Fund Facts will disclose this requirement. We have been asking filers to revise the "Other Fees" section of the applicable Fund Facts to include this disclosure.

- *Management/administration fees payable to the manager directly by investors (Series I, Series O)*

  For management fees, administration fees and/or other fees that are payable directly by investors, staff expect that the Fund Facts for such class or series disclose the existence of such fees and the maximum fees (as a percentage) that may be charged to an investor. We have been asking filers to add such disclosure in the "Other Fees" section of the applicable Fund Facts.

[5] *In the Matter of Manulife Mutual Funds* dated August 18, 2011
[6] For an example, refer to *In the Matter of AGF Investments Inc. et al*. dated June 28, 2011.

1.2 Notices of Hearing

1.2.1 Shallow Oil & Gas Inc. et al. – ss. 37, 127

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

AND

IN THE MATTER OF
SHALLOW OIL & GAS INC., ERIC O'BRIEN,
ABEL DA SILVA, GURDIP SINGH GAHUNIA
also known as MICHAEL GAHUNIA,
ABRAHAM HERBERT GROSSMAN also known as
ALLEN GROSSMAN, MARCO DIADAMO,
GORD McQUARRIE, KEVIN WASH, and
WILLIAM MANKOFSKY

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MARCO DIADAMO

NOTICE OF HEARING
(Sections 37 and 127)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37 and 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), at the offices of the Commission located at 20 Queen Street West, Toronto, 17th Floor, on December 9, 2011 at 9:30 a.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider whether it is in the public interest to approve a settlement agreement entered into between Staff of the Commission and Marco Diadamo;

BY REASON OF the allegations set out in the Statement of Allegations of Staff of the Commission dated June 10, 2008 and such additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel, if that party attends or submits evidence at the hearing;

AND TAKE FURTHER NOTICE that upon the 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 proceeding.

DATED at Toronto this 2nd day of December, 2011.

"John Stevenson"
Secretary to the Commission

1.2.2 Firestar Capital Management Corp. et al. – ss. 37, 127

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

AND

IN THE MATTER OF
FIRESTAR CAPITAL MANAGEMENT CORP.,
KAMPOSSE FINANCIAL CORP., FIRESTAR
INVESTMENT MANAGEMENT GROUP INC.,
MICHAEL CIAVARELLA AND MICHAEL MITTON

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MICHAEL MITTON

NOTICE OF HEARING
(Sections 37 and 127)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37 and 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), at the offices of the Commission located at 20 Queen Street West, Toronto, 17th Floor, on December 9, 2011 at 9:00 a.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider whether it is in the public interest to approve a settlement agreement entered into between Staff of the Commission and Michael Mitton;

BY REASON OF the allegations set out in the Statements of Allegations of Staff of the Commission dated December 21, 2004 and such additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel, if that party attends or submits evidence at the hearing;

AND TAKE FURTHER NOTICE that upon the 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 proceeding.

DATED at Toronto this 7th day of December, 2011.

"John Stevenson"
Secretary to the Commission

1.4 Notices from the Office of the Secretary

1.4.1 Majestic Supply Co. Inc. et al.

FOR IMMEDIATE RELEASE
December 1, 2011

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

AND

IN THE MATTER OF
MAJESTIC SUPPLY CO. INC.,
SUNCASTLE DEVELOPMENTS CORPORATION,
HERBERT ADAMS, STEVE BISHOP,
MARY KRICFALUSI, KEVIN LOMAN AND
CBK ENTERPRISES INC.

TORONTO – The Commission issued an Order in the above named matter which provides that (i) Gowling Lafleur Henderson LLP and Clifford Cole of that firm, in particular, is granted leave to withdraw as counsel of record for Adams and Suncastle; (ii) Sheppard Brown Rosenthal and Tom Sheppard of that firm, in particular, is granted leave to withdraw as counsel of record for Kricfalusi and CBK; and (iii) Sack Goldblatt Mitchell LLP and Andrew Furgiuele of that firm, in particular, is permitted to act on behalf of Adams for the limited purpose of cross-examining certain witnesses and that otherwise Adams will represent himself in the hearing in this matter.

A copy of the Order dated November 7, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.2 Ameron Oil and Gas Ltd. et al.

FOR IMMEDIATE RELEASE
December 1, 2011

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

AND

IN THE MATTER OF
AMERON OIL AND GAS LTD., MX-IV LTD.,
GAYE KNOWLES, GIORGIO KNOWLES,
ANTHONY HOWORTH, VADIM TSATSKIN,
MARK GRINSHPUN, ODED PASTERNAK,
AND ALLAN WALKER

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MARK GRINSHPUN

TORONTO – Following a hearing held on November 29, 2011, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Mark Grinshpun.

A copy of the Order dated November 29, 2011 and Settlement Agreement dated November 25, 2011 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.3 Zungui Haixi Corporation et al.

FOR IMMEDIATE RELEASE
December 2, 2011

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

AND

IN THE MATTER OF
ZUNGUI HAIXI CORPORATION,
YANDA CAI AND FENGYI CAI

TORONTO – The Commission issued an Order in the above noted matter which provides that (i) the Motion will be conducted by means of a written hearing; (ii) pursuant to its ongoing disclosure obligations, Staff shall make available for inspection by the Respondents at the Offices of the Commission as soon as is reasonably practicable all of the relevant documents or things that may come into Staff's possession or control; and (iii) the hearing on the merits is to commence on February 2, 2012 at 10:00 a.m. at the Offices of the Commission, 20 Queen Street West, 17th Floor, Toronto, and shall continue on February 3, 2012 or such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary.

A copy of the Order dated November 30, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.4 Shallow Oil & Gas Inc. et al.

FOR IMMEDIATE RELEASE
December 2, 2011

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

AND

IN THE MATTER OF
SHALLOW OIL & GAS INC., ERIC O'BRIEN,
ABEL DA SILVA, GURDIP SINGH GAHUNIA
also known as MICHAEL GAHUNIA,
ABRAHAM HERBERT GROSSMAN also known as
ALLEN GROSSMAN, MARCO DIADAMO,
GORD McQUARRIE, KEVIN WASH, and
WILLIAM MANKOFSKY

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MARCO DIADAMO

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Marco Diadamo in the above named matter. The hearing will be held on December 9, 2011 at 9:30 a.m. in Hearing Room B on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated December 2, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.5 Sextant Capital Management Inc. et al.

FOR IMMEDIATE RELEASE
December 5, 2011

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

AND

IN THE MATTER OF
SEXTANT CAPITAL MANAGEMENT INC., SEXTANT CAPITAL GP INC., OTTO SPORK, KONSTANTINOS EKONOMIDIS, ROBERT LEVACK AND NATALIE SPORK

TORONTO – The Commission issued an order today which provides that the Sanctions Hearing scheduled for December 7, 2011 is adjourned, on consent, to April 18, 2012 at 10:00 a.m. There will be no hearing on December 7, 2011.

A copy of the Order dated December 5, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.6 Carlton Ivanhoe Lewis et al.

FOR IMMEDIATE RELEASE
December 5, 2011

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

AND

IN THE MATTER OF
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

TORONTO – Following the release of the Panel's Reasons and Decision dated October 27, 2011 on the hearing on the merits, a sanctions hearing is scheduled to commence on Wednesday, December 21, 2011 at 11:00 a.m. in Hearing Room B, 17th Floor, 20 Queen Street West, Toronto, in the above named matter.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.7 L. Jeffrey Pogachar et al.

FOR IMMEDIATE RELEASE
December 6, 2011

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

AND

IN THE MATTER OF
L. JEFFREY POGACHAR, PAOLA LOMBARDI AND ALAN S. PRICE, NEW LIFE CAPITAL CORP., NEW LIFE CAPITAL INVESTMENTS INC., NEW LIFE CAPITAL ADVANTAGE INC., NEW LIFE CAPITAL STRATEGIES INC., 2126375 ONTARIO INC., 2108375 ONTARIO INC., 2126533 ONTARIO INC., 2152042 ONTARIO INC., 2100228 ONTARIO INC., 2173817 ONTARIO INC., AND 1660690 ONTARIO LTD.

TORONTO – Take notice that following a hearing held on Monday, December 5, 2011, the panel considered and denied a request for an adjournment brought by one of the respondents, Ms. Lombardi, and has ordered that the hearing of this matter commence on Wednesday, December 7, 2011 at 10:00 a.m. and continue thereafter as scheduled.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.8 MRS Sciences Inc. (formerly Morningside Capital Corp.) et al.

FOR IMMEDIATE RELEASE
December 6, 2011

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

AND

IN THE MATTER OF
MRS SCIENCES INC. (FORMERLY MORNINGSIDE CAPITAL CORP.), AMERICO DEROSA, RONALD SHERMAN, EDWARD EMMONS, IVAN CAVRIC AND PRIMEQUEST CAPITAL CORPORATION

TORONTO – The Commission issued its Reasons and Decision on a Motion in the above named matter.

A copy of the Reasons and Decision on a Motion dated December 6, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.9 Firestar Capital Management Corp. et al.

FOR IMMEDIATE RELEASE
December 7, 2011

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

AND

IN THE MATTER OF
FIRESTAR CAPITAL MANAGEMENT CORP.,
KAMPOSSE FINANCIAL CORP., FIRESTAR
INVESTMENT MANAGEMENT GROUP INC.,
MICHAEL CIAVARELLA AND MICHAEL MITTON

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Michael Mitton. The hearing will be held on December 9, 2011 at 9:00 a.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated December 7, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Goodman & Company, Investment Counsel Ltd. and Dynamic Strategic Resource Class

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to mutual fund from prohibition against purchasing a physical commodity other than gold or a specified derivative the underlying interest of which is a physical commodity other than gold – mutual fund that invests primarily in the resource sector desires to make limited investments in gold, silver, platinum and palladium and to also invest in standardized futures with underlying interests in oil and natural gas for hedging purposes – relief granted provided purchase of standardized future is effected through the NYMEX or ICE Europe, the standardized future is traded only for cash or an offsetting standardized future contract, and the standardized future is sold at least one day prior to the date on which delivery of the underlying commodity is due under the standardized future – relief is subject to limits on investments in gold, silver, platinum, palladium, oil and natural gas – National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(f), 2.3(h), 19.1.

November 11, 2011

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
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the "Filer")

AND

IN THE MATTER OF
DYNAMIC STRATEGIC RESOURCE CLASS
(the "Fund")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund of which the Filer is the manager and adviser and to which National Instrument 81-102 *Mutual Funds* (**NI 81-102**) applies for a decision under the securities legislation of the Jurisdiction of the principal regulator (**Legislation**) that notwithstanding:

(i) clauses 2.3(f) and (h) of NI 81-102, the Fund be permitted to invest an aggregate of up to 10% of the net assets of the Fund, taken at the market value thereof at the time of investment, in gold, silver, platinum and palladium (or the

equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium); and

(ii) clause 2.3(h) of NI 81-102, the Fund be permitted to invest in specified derivatives, namely standardized futures (as such terms are defined in section 1.1 of NI 81-102) with underlying interests in oil or gas, for hedging purposes

(the "**Exemption Sought**").

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

(a) the Ontario Securities Commission ("**OSC**") is the principal regulator for this application, and

(b) the Manager has provided notice that section 4.7(1) of Multilateral Instrument 11-102 Passport System is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the "**Jurisdictions**").

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions* and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. References to "**oil**" and "**gas**" in this application are to sweet crude oil and natural gas, respectively. The term "**Specified Metals**" in this application refers to any or all of gold, silver, platinum and palladium.

Representations

The decision is based on the following facts represented by the Filer:

1. The Filer is a corporation existing under the laws of the Province of Ontario, is registered with the OSC as an adviser in the category of portfolio manager, is further registered in that category in each of British Columbia, Alberta, Manitoba, Saskatchewan, Quebec, New Brunswick, Nova Scotia and Prince Edward Island and is registered as a commodity trading manager and investment fund manager with the OSC.

2. The Fund is an open-end mutual fund established as a class of Dynamic Global Fund Corporation, a mutual fund corporation existing under the laws of the Province of Ontario.

3. A receipt was issued by the OSC for the preliminary simplified prospectus and annual information form of the Fund on July 29, 2011. Once a final prospectus (the "**Final Prospectus**") and annual information form for the Fund is filed and a receipt is obtained, the Fund will be a "reporting issuer" or equivalent in each Jurisdiction.

4. Neither the Filer nor the Fund is in default of securities legislation in any of the Jurisdictions.

5. The investment objectives of the Fund are to provide long-term capital appreciation by investing primarily in resources, which may include oil and gas and physical commodities such as gold, silver, platinum and palladium, and equity securities of businesses involved in resource-based activities.

6. The investment objectives and investment strategies of the Fund allow for portfolio investments in Specified Metals and in standardized futures with underlying interests in oil and gas, as well as, among other things, equity securities of energy related companies, including oil and gas issuers.

7. manager of the Fund additional flexibility to increase gains for the Fund in certain market conditions, which may have otherwise caused the Fund to have significant cash positions and therefore detract from its ability to achieve its investment objectives.

8. The Filer considers investments in oil and gas standardized futures traded on the ICE Futures Europe ("**ICE Europe**") and New York Mercantile Exchange ("**NYMEX**") for hedging purposes to be a means of reducing the volatility that can result from the changing prices of securities of issuers in the oil and gas sector. The Filer proposes to trade standardized futures contracts for cash or an offsetting contract to satisfy the obligations in a standardized futures contract.

9. The Filer believes that the market for Specified Metals and the oil and gas standardized futures markets of ICE Europe and NYMEX are highly liquid.

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 Filer, on behalf of the Fund, ensures that any silver, platinum or palladium certificates purchased by the Fund, represent the underlying precious metal which is:

  (i) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;

  (ii) of minimum fineness 999 parts per 1,000;

  (iii) held in Canada;

  (iv) in the form of either bars or wafers; and

  (v) if not purchased from a bank listed in Schedule I, II or III of the *Bank Act* (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a jurisdiction.

(b) the purchases, uses and sales of standardized futures which have underlying interests in oil or gas are made in accordance with the provisions otherwise relating to the use of specified derivatives for hedging purposes in NI 81-102;

(c) a standardized futures contract will be traded only for cash or an offsetting standardized future contract to satisfy the obligations under the standardized future and will be sold at least one day prior to the date on which delivery of the underlying commodity is due under the standardized future;

(d) the purchase of a standardized future will be effected through ICE Europe or NYMEX;

(e) the Fund will not purchase a standardized futures contract for hedging purposes if, immediately following the purchase, the Fund would hold standardized futures contracts for hedging purposes relating to barrels of oil and/or British Thermal Units of gas representing an aggregate value that exceeds 80% of the total net assets of the Fund at that time;

(f) the Fund will keep proper books and records of all purchases and sales of standardized futures;

(g) the Final Prospectus of the Fund discloses:

  (i) in the investment strategy section in Part B of the Final Prospectus of the Fund, that the Fund may invest (1) an aggregate of up to 10% of its net assets in gold, silver, platinum and palladium (or the equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium), and (2) an aggregate of up to 80% of its net assets in standardized futures with underlying interests in oil and gas as a hedge against oil and gas investments;

  (ii) the risks associated with the investments described in (i); and

  (iii) this exemptive relief.

“Chantal Mainville”
Acting Manager, Investment Funds Branch
Ontario Securities Commission

2.1.2 Goodman & Company, Investment Counsel Ltd. and Dynamic Strategic Resource Class

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to mutual fund from prohibition against purchasing a physical commodity other than gold or a specified derivative the underlying interest of which is a physical commodity other than gold – mutual fund that invests primarily in the resource sector desires to make limited investments in gold, silver, platinum and palladium and to also invest in standardized futures with underlying interests in oil and natural gas for hedging purposes – relief granted provided purchase of standardized future is effected through the NYMEX or ICE Europe, the standardized future is traded only for cash or an offsetting standardized future contract, and the standardized future is sold at least one day prior to the date on which delivery of the underlying commodity is due under the standardized future – relief is subject to limits on investments in gold, silver, platinum, palladium, oil and natural gas – National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(f), 2.3(h), 19.1.

November 15, 2011

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
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the "Filer")

AND

IN THE MATTER OF
DYNAMIC STRATEGIC RESOURCE CLASS
(the "Fund")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund of which the Filer is the manager and adviser and to which National Instrument 81-102 *Mutual Funds* (**NI 81-102**) applies for a decision under the securities legislation of the Jurisdiction of the principal regulator (**Legislation**) that (a) notwithstanding:

(i) clauses 2.3(f) and (h) of NI 81-102, the Fund be permitted to invest in gold, silver, platinum or palladium (or the equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium) or specified derivatives, namely standardized futures (as such terms are defined in section 1.1 of NI 81-102) with underlying interests in oil or gas, provided the investments, in the aggregate, not exceed or represent greater than 10% of the net assets of the Fund, taken at the market value thereof at the time of investment, and

(ii) clause 2.3(h) of NI 81-102, the Fund be permitted to invest in specified derivatives, namely standardized futures (as such terms are defined in section 1.1 of NI 81-102) with underlying interests in oil or gas, for hedging purposes, provided the investments, in the aggregate, not exceed or represent greater than 80% of the net assets of the Fund, taken at the market value thereof at the time of investment;

and (b) the Previous Decision (as defined below) be revoked (collectively, the "**Exemption Sought**").

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

(a) the Ontario Securities Commission ("**OSC**") is the principal regulator for this application, and

(b) the Manager has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the "**Jurisdictions**").

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions* and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. References to "**oil**" and "**gas**" in this application are to sweet crude oil and natural gas, respectively. The term "**Specified Metals**" in this application refers to any or all of gold, silver, platinum and palladium.

Representations

The decision is based on the following facts represented by the Filer:

1. The Filer is a corporation existing under the laws of the Province of Ontario, is registered with the OSC as an adviser in the category of portfolio manager, is further registered in that category in each of British Columbia, Alberta, Manitoba, Saskatchewan, Quebec, New Brunswick, Nova Scotia and Prince Edward Island and is registered as a commodity trading manager and investment fund manager with the OSC.

2. The Fund is an open-end mutual fund established as a class of Dynamic Global Fund Corporation, a mutual fund corporation existing under the laws of the Province of Ontario.

3. Pursuant to the November 11, 2011 decision *In the Matter of Goodman & Company, Investment Counsel Ltd.* (the "**Previous Decision**") the Manager obtained exemptive relief to permit the Fund to invest an aggregate of up to (i) 10% of the net assets of the Fund, taken at the market value thereof at the time of investment, in gold, silver, platinum and palladium (or the equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium) (the "**10% Relief**"), and (ii) 80% of the net assets of the Fund, taken at the market value thereof at the time of investment, in specified derivatives (namely standardized futures) with underlying interests in oil or gas, for hedging purposes.

4. A receipt was issued by the OSC for the simplified prospectus (the "**Simplified Prospectus**") and annual information form of the Fund on November 14, 2011. As a result, the Fund is a "reporting issuer" or equivalent in each Jurisdiction.

5. The Manager now wishes to revoke and replace the Previous Decision so as to include the purchase of standardized futures with underlying interests in oil and gas for non-hedging purposes in the 10% Relief.

6. Neither the Filer nor the Fund is in default of securities legislation in any of the Jurisdictions.

7. The investment objectives of the Fund are to provide long-term capital appreciation by investing primarily in resources, which may include oil and gas and physical commodities such as gold, silver, platinum and palladium, and equity securities of businesses involved in resource-based activities.

8. The investment objectives and investment strategies of the Fund allow for portfolio investments in Specified Metals and in standardized futures with underlying interests in oil and gas, as well as, among other things, equity securities of energy related companies, including oil and gas issuers.

9. The Filer considers Specified Metals to be a viable alternative to holding cash or cash equivalents and will permit the portfolio manager of the Fund additional flexibility to increase gains for the Fund in certain market conditions, which may have otherwise caused the Fund to have significant cash positions and therefore detract from its ability to achieve its investment objectives.

10. The Filer considers investments in oil and gas standardized futures traded on the ICE Futures Europe ("**ICE Europe**") and New York Mercantile Exchange ("**NYMEX**") to be a means of reducing the volatility that can result from the changing prices of securities of issuers in the oil and gas sector. The Filer proposes to trade standardized futures contracts for cash or an offsetting contract to satisfy the obligations in a standardized futures contract.

11. The Filer believes that the market for Specified Metals and the oil and gas standardized futures markets of ICE Europe and NYMEX are highly liquid.

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 Filer, on behalf of the Fund, ensures that any silver, platinum or palladium certificates purchased by the Fund, represent the underlying precious metal which is:

  (i) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;

  (ii) of minimum fineness 999 parts per 1,000;

  (iii) held in Canada;

  (iv) in the form of either bars or wafers; and

  (v) if not purchased from a bank listed in Schedule I, II or III of the Bank Act (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a jurisdiction.

(b) the purchases, uses and sales of standardized futures which have underlying interests in oil or gas are made in accordance with the provisions otherwise relating to the use of specified derivatives for hedging and non-hedging purposes in NI 81-102;

(c) a standardized futures contract will be traded only for cash or an offsetting standardized future contract to satisfy the obligations under the standardized future and will be sold at least one day prior to the date on which delivery of the underlying commodity is due under the standardized future;

(d) the purchase of a standardized future will be effected through ICE Europe or NYMEX;

(e) the Fund will not purchase gold, silver, platinum or palladium (or the equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium) or standardized futures with underlying interests in oil or gas for non-hedging purposes if, immediately following the purchase, the aggregate of such investments would exceed or represent greater than 10% of the net assets of the Fund at the time of purchase;

(f) the Fund will not purchase a standardized futures with underlying interests in oil or gas for hedging purposes if, immediately following the purchase, the aggregate of such investments would exceed or represent greater than 80% of the net assets of the Fund at the time of purchase;

(g) the Fund will keep proper books and records of all purchases and sales of standardized futures;

(h) the Simplified Prospectus of the Fund or an amendment thereto discloses:

  (i) in the investment strategy section in Part B of the Simplified Prospectus of the Fund, that the Fund may invest (1) in gold, silver, platinum and palladium (or the equivalent in certificates or specified derivatives of which the underlying interest is gold, silver, platinum or palladium) or standardized futures, for non-hedging purposes, with underlying interests in oil and gas, provided the aggregate investments not exceed or represent greater than 10% of the net assets of the Fund, taken at the market value thereof at the time of investment; and (2) an aggregate of up to 80% of its net assets in standardized futures with underlying interests in oil and gas as a hedge against oil and gas investments;

  (ii) the risks associated with the investments described in (i); and

  (iii) this exemptive relief.

“Chantal Mainville”
Acting Manager, Investment Funds Branch
Ontario Securities Commission

2.1.3 Pediment Gold Corp.

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 order granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).
CSA Staff Notice 12-307 – Applications for a Decision that an Issuer is not a Reporting Issuer.

December 1, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA AND ONTARIO
(the "Jurisdictions")

AND

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

AND

IN THE MATTER OF
PEDIMENT GOLD CORP.
(the "Filer")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that the Filer is deemed to have ceased to be a reporting issuer (the "**Decision Sought**").

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

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 *Passport System* 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:

1. The Filer is a corporation governed by the *Business Corporations Act* (British Columbia) with its registered address located at 3000 Royal Centre, PO Box 11130, 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3.

2. The Filer is a reporting issuer in the provinces of Alberta and Ontario.

3. The Filer's authorized share capital consists of an unlimited number of common shares ("**Shares**").

4. No securities of the Filer are listed on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*. ("**NI 21-101**").

The Arrangement

5. Argonaut Gold Inc. ("**Argonaut**") is an exploration company incorporated pursuant to the laws of the province of Ontario, and is a reporting issuer in the provinces of British Columbia and Alberta. The common shares of Argonaut are listed for trading on the Toronto Stock Exchange (**TSX**).

6. On October 18, 2010, pursuant to a business combination agreement entered into between the Filer and Argonaut (the "**Agreement**"), Argonaut agreed, through a court ordered plan of arrangement (the "**Arrangement**"), to acquire all of the issued and outstanding Shares. Pursuant to the Agreement, Argonaut agreed to issue 0.625 one common share of Argonaut in exchange for each Share.

Background to Application

7. Prior to consummation of the transactions described above, the Shares were listed for trading on the TSX under the symbol "PEZ". Such Shares were delisted on the close of business on February 1, 2011.

8. Other than as described above, the Filer has no other securities issued and outstanding.

9. The Filer has no current intention to seek public financing by way of an offering of securities.

10. The Filer is applying to cease to be a reporting issuer in all jurisdictions of Canada in which it is currently a reporting issuer. The Filer ceased to be a reporting issuer in British Columbia as of February 28, 2011.

11. The Filer is not in default of any requirement of the securities legislation in any of the Jurisdictions except for the obligation arising after Argonaut

came to be the issuer's sole shareholder pursuant to the Arrangement to file its interim financial statements and its management discussion and analysis for the periods ending December 31, 2010, March 30, 2011 and June 30, 2011, as required under National Instrument 51-102, *Continuous Disclosure Obligations* and the related certification of such financial statements as required under Multilateral Instrument 52-109 – *Certification of Disclosure in Filers' Annual and Interim Filings*.

12. All of the Shares are owned by Argonaut. Therefore, the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada.

13. The Filer, upon the grant of the Decision Sought, will no longer be a reporting issuer or the equivalent in any jurisdiction in Canada.

Decision

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

The decision of the Decision Makers under the Legislation is that the Decision Sought is granted.

"Paulette Kennedy"
Commissioner

"James Turner"
Vice-Chair

2.1.4 IA Clarington Investments Inc. and IA Clarington Global Equity Exposure Fund

Headnote

Policy Statement 11-203 respecting Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from subsection 2.1(2) of Regulation 81-101 to file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Applicable Legislative Provisions

Regulation 81-101 respecting Mutual Fund Prospectus Disclosure, ss. 2.1(2), 6.1.

November 25, 2011

**IN THE MATTER OF THE
SECURITIES LEGISLATION OF
QUÉBEC AND ONTARIO
(the Jurisdictions)**

AND

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

AND

**IN THE MATTER OF
IA CLARINGTON INVESTMENTS INC.
(the Filer)**

AND

**IA CLARINGTON GLOBAL EQUITY EXPOSURE FUND
(the Fund)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received November 16, 2011, an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption under section 6.1 of *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (Regulation 81-101) from the prohibition of subsection 2.1(2) of Regulation 81-101, to permit the Fund to file a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus (the Exemption Sought).

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

(a) the Autorité des marchés financiers (AMF) is the principal regulator for this application;

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

(c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* and Regulation 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:

1. The Filer is a corporation governed under the *Canada Business Corporations Act* and has its head office located in the Province of Québec.

2. The Filer is registered as an investment fund manager in Québec and as a portfolio manager in each of the provinces of Canada.

3. The Filer will be the manager and trustee of the Fund.

4. The Fund will be an open-ended mutual fund trust to be established under the laws of Ontario pursuant to a declaration of trust.

5. The Filer and the Fund are not in default of securities legislation in any jurisdiction of Canada.

6. The Filer has filed a preliminary prospectus and preliminary annual information form dated August 18, 2011 to seek to qualify securities of the Fund for distribution in each of the jurisdiction of Canada. A receipt for the preliminary prospectus has been issued on August 19, 2011.

7. Pursuant to subsection 2.1(2) of Regulation 81-101, the Filer must file a final prospectus for the Fund no later than November 17, 2011.

8. Staff of the AMF and the Ontario Securities Commission (OSC) and the Filer are currently in discussions over the proposed investment strategies of the Fund.

9. The Filer believes that it will need an additional 90 days beyond the time period required by subsection 2.1(2) of Regulation 81-101 to resolve the outstanding issues regarding the Fund's proposed investment strategies with AMF and OSC staff.

10. There has been no public solicitation of expressions of interest in relation to securities of the Fund.

11. The preliminary prospectus has not been publicly distributed and so the Exemption Sought would not affect any prospective investors and would not be contrary to the public interest.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the prospectus of the Fund is filed no later than February 15, 2012.

"Josée Deslauriers"
Director, Investment Funds and Continuous Disclosure
Autorité des marchés financiers

2.1.5 5Banc Split Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemptive relief granted to an exchange traded fund from certain mutual fund requirements relating to calculation and payment of redemptions – Relating to new issuance of preferred shares – Since investors will generally buy and sell units through the TSX, there are adequate protections and it would not be prejudicial to investors – National Instrument 81-102 – Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 10.3, 10.4(1).

December 1, 2011

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
5BANC SPLIT INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for exemption from the following sections of National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) with respect to the Class C preferred shares, Series 1 (the **Class C Preferred Shares**) proposed to be issued by the Filer as described in a preliminary short form prospectus dated November 25, 2011 (the **Preliminary Prospectus**):

(a) Section 10.3, which requires that the redemption price of a security of a mutual fund to which a redemption order pertains shall be the net asset value of a security of that class, or series of class, next determined after the receipt by the mutual fund of the order; and

(b) Paragraph 10.4(1)(a), which requires that a mutual fund shall pay the redemption price for securities that are the subject of a redemption order within three business days after the date of calculation of the net asset value per security used in establishing the redemption price,

(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, 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 the jurisdictions of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador.

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:

The Filer

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on November 9, 2001. The Filer's head office is located in Toronto, Ontario. The Filer is not in default of securities legislation in any province of Canada.

2. On October 7, 2011, the holders of the Class B capital shares (the **Capital Shares**) approved a share capital reorganization (the **Reorganization**). The Reorganization will permit holders of Capital Shares to extend their investment in the Filer beyond the originally scheduled redemption date of December 15, 2011 for an additional 5 years. The Reorganization also provides holders of Capital Shares with a special right of retraction (the **Special Retraction Right**) to replace the originally scheduled redemption date of December 15, 2011. Under the Reorganization, holders of Capital Shares who do not wish to extend their investment may choose to have their shares redeemed on December 15, 2011. If the Reorganization is not implemented, the Special Retraction Right will not become effective and the Capital Shares will be redeemed by the Filer on December 15, 2011 in accordance with their terms.

3. The Class C Preferred Shares are being offered in order to maintain the leveraged "split share" structure of the Filer and will be issued on December 15, 2011 (the **Offering**) such that there

will be one Capital Share issued for each Class C Preferred Share issued and outstanding on and after December 15, 2011.

4. The Filer will make the Offering to the public pursuant to the Preliminary Prospectus and a final short form prospectus (the **Final Prospectus**).

5. The Capital Shares will continue to be listed and posted for trading on The Toronto Stock Exchange (the **TSX**) and the Class C Preferred Shares are expected to be listed and posted for trading on the TSX. An application requesting conditional listing approval has been made by the Filer to the TSX.

6. The primary undertaking of the Filer is to invest the common shares (the **Portfolio Shares**) of Bank of Montreal, The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Royal Bank of Canada and The Toronto-Dominion Bank in order to provide holders of the Class C Preferred Shares with fixed cumulative preferential dividends and to provide holders of the Capital Shares with a leveraged investment and excess dividends, if any, subject to the prior rights of holders of Class C Preferred Shares and after payment of the expenses of the Company and dividends payable on the Class C Preferred Shares. The Portfolio Shares are the only material assets of the Filer.

7. The expenses incurred in connection with the Offering, being the costs of the preparation and filing of the Preliminary Prospectus and the Final Prospectus, will be borne by the Filer.

8. The net proceeds of the Offering (after deducting the agents' fees and expenses of the Offering) will be used by the Filer to fund the redemption of all of the issued and outstanding Class B preferred shares of the Filer on December 15, 2011 as well as those Capital Shares being redeemed pursuant to the Special Retraction Right.

9. It is the policy of the Filer to hold the Portfolio Shares and to not engage in any trading of the Portfolio Shares, except:

   (i) to fund retractions or redemptions of Capital Shares and Class C Preferred Shares;

   (ii) following receipt of stock dividends on the Portfolio Shares;

   (iii) in the event of a take-over bid for any of the Portfolio Shares;

   (iv) if necessary, to fund any shortfall in the distribution on Class C Preferred Shares; and

   (v) to meet obligations of the Filer in respect of liabilities including extraordinary liabilities.

10. The Class C Preferred Share distributions will be funded primarily from the dividends received on the Portfolio Shares. If necessary, any shortfall in the distributions on the Class C Preferred Shares will be funded with proceeds from the sale of Portfolio Shares.

11. The Capital Shares and the Class C Preferred Shares may be surrendered for retraction at any time. Retraction payments for the Capital Shares and the Class C Preferred Shares will be made on the Retraction Payment Date (as defined in the Preliminary Prospectus) provided the Capital Shares and the Class C Preferred Shares have been surrendered for retraction no later than ten business days before the 15th day of a month. While the Filer's Unit Value (as defined in the Preliminary Prospectus) is calculated weekly, the retraction price for the Capital Shares and the Class C Preferred Shares will be determined based on the Unit Value in effect as at the Valuation Date (as defined in the Preliminary Prospectus).

12. Any Capital Shares and Class C Preferred Shares outstanding on December 15, 2016 will be redeemed by the Filer on such date.

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 as follows:

(a) Section 10.3 – to permit the Filer to calculate the retraction price for the Class C Preferred Shares in the manner described in the Preliminary Prospectus and on the applicable Valuation Date as defined in the Preliminary Prospectus; and

(b) Paragraph 10.4(1)(a) – to permit the Filer to pay the retraction price for the Class C Preferred Shares on the Retraction Payment Date as defined in the Preliminary Prospectus.

"Chantal Mainville"
Acting Manager, Investment Funds Branch
Ontario Securities Commission

2.1.6 BMO Nesbitt Burns Inc. and BMO Nesbitt Burns Ltee/Ltd.

Headnote

MI 11-102 and NI 31-103 – Exemption from section 4.1 of NI 31-103 to allow dealing, advising or associate advising representatives of one applicant be registered in same capacity with its subsidiary, the second applicant, for purposes of serving retail clients in Province of Quebec, separate subsidiaries for tax reasons.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1, 15.1.

December 2, 2011

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
BMO NESBITT BURNS INC. AND
BMO NESBITT BURNS LTEE/LTD.
(the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) of the principal regulator for relief from paragraph 4.1(1)(b) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) to permit individuals who are dealing, advising or associate advising representatives of one of the Filers to also be dealing, advising or associate advising representatives of the other Filer (the **Relief Sought**).

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

1. the Ontario Securities Commission is the principal regulator for this Application, and

2. 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

Defined terms contained in National Instrument 14-101 – *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. Each of the Filers is an indirectly wholly-owned subsidiary of Bank of Montreal (**BMO**), a Schedule I Canadian chartered bank. Further, BMO Nesbitt Burns Ltee/Ltd. (**BMO NB Ltee**) is a wholly-owned subsidiary of BMO Nesbitt Burns Inc. (**BMO NB Inc.**).

2. Each of the Filers is a Member Firm of the Investment Industry Regulatory Organization of Canada (**IIROC**) and an Approved Participant of the Montreal Exchange. In addition, BMO NB Inc. is (i) registered in each of the jurisdictions of Canada in the category of investment dealer and in Ontario in the categories of futures commission merchant and investment fund manager, (ii) a Participating Organization of the Toronto Stock Exchange, (iii) a Member Firm of the TSX Venture Exchange and (iv) a Participant of ICE Futures Canada. BMO NB Ltee is registered in Québec as an investment dealer, derivatives dealer and financial planner.

3. For tax planning purposes, BMO has historically caused, and continues to require, the securities brokerage businesses of its subsidiaries to be carried out through two registrants whereby, in the Province of Québec, retail brokerage business is carried out through one registrant while institutional brokerage business is carried out through both registrants. Currently, this is reflected through the respective businesses of BMO as follows:

   (a) institutional brokerage business of BMO is carried out through both Filers;

   (b) retail brokerage business in all provinces other than Quebec is carried out through BMO NB Inc.; and

   (c) retail brokerage business in the Province of Quebec is carried out through BMO NB Ltee.

4. For purposes of discharging their obligations under applicable securities legislation, stock exchange requirements and IIROC requirements, the Filers are considered in all material respects as a combined entity, including:

(a) for reporting purposes and regulatory capital adequacy purposes, the Filers prepare a single monthly financial report in which their net capital is computed on a joint basis;

(b) a single statement of policies governs each of the Filers; and

(c) in compliance with IIROC requirements, the respective obligations of the Filers are cross-guaranteed.

5. Each of the Filers carries on business under the name "BMO Nesbitt Burns" and it is on this basis that clients deal with each of the Filers.

6. A fully harmonized compliance organization has been established for the Filers.

7. BMO's compliance structure has been in place for a significant period and, accordingly, the persons responsible for compliance for the Filers are particularly sensitive to, and well structured to effectively monitor and address, the respective compliance obligations of the Filers relating to institutional client trading on the one hand and retail client trading on the other hand. In addition, the persons responsible for overseeing compliance in respect of client trading are already required, in certain provinces, including Ontario, to monitor the conduct of both institutional client trading and retail client trading.

8. The Filers have determined that certain of their salespersons could, as a practical matter, successfully establish accounts for both retail and institutional clients and have sufficient time to adequately serve both Filers, and have requested the right to do so.

9. With the current BMO structure, in the Province of Québec, such individuals could only do so through being a registered dealing, advising or associate advising representative with both BMO NB Inc. (through which institutional brokerage business is carried out) and BMO NB Ltee (through which both institutional and retail brokerage business is carried out).

10. Paragraph 4.1(1)(b) of NI 31-103 provides that a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another registered firm.

11. Section 15.1 of NI 31-103 provides that the regulator or securities regulatory authority may grant an exemption from NI 31-103, in whole or in part.

12. As BMO NB Ltee is a wholly-owned subsidiary of BMO NB Inc., and as clients in the Province of Quebec will be either retail or institutional clients in the case of BMO NB Ltee or institutional clients of BMO NB Inc., it is unlikely that there will be any conflicts of interest arising from registration with both Filers.

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 Relief Sought is granted.

"Erez Blumberger"
Deputy Director
Ontario Securities Commission

2.1.7 Growthworks Canadian Fund Ltd.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Labour-sponsored investment fund with same venture but different non-venture investment strategies among different series of Class A shares – two proposed mergers of series of Class A shares referable to different sets of portfolio assets – each set of two series a mutual fund under section 1.3 NI 81-102. Approval of mutual fund mergers under sections 5.5(1)(b) and 5.5(3) required because mergers do not meet the criteria for pre-approved reorganizations and transfers in section 5.6(1) of NI 81-102 – different investment objectives, not a qualifying exchange, and current prospectus of continuing series inadvertently not included with meeting materials – decision not a precedent with respect to non-inclusion of current prospectus with meeting materials.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(b), 5.5(3), 5.6(1).

November 24, 2011

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
GROWTHWORKS CANADIAN FUND LTD.
(the "Filer")

AND

IN THE MATTER OF THE FILER'S
VENTURE/INCOME COMMISSION I AND II
CLASS A SHARES ("Income Shares"),
VENTURE/DIVERSIFIED COMMISSION I AND II

CLASS A SHARES ("Diversified Shares"),

DECISION

Background

The principal regulator in the jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for approval (the "**Approval**") under paragraph 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") to merge its assets referable to its Income Shares with its assets referable to its Diversified Shares by converting its two series of Income Shares into the series of Diversified Shares with the corresponding commission structures (collectively, the "**Conversions**").

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

(a) Ontario is the principal regulator for this application, and

(b) The Filer has provided notice that section 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, Quebec, Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, Northwest Territories, Nunavut, and Yukon Territory.

Interpretation

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

Representations

The decision is based on the following facts represented by the Filer:

The Manager

1. GrowthWorks WV Management Ltd. (the "**Manager**") is the manager of the Filer under a management contract. The Manager's administrative head office is in British Columbia, however capital raising and investing activities for the Filer are focussed in Ontario.

The Filer

2. The Filer is a corporation incorporated under the *Canada Business Corporations Act* (the "**CBCA**").

3. The Filer is a registered labour-sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (Ontario), a registered labour-sponsored venture capital corporation ("**LSVCC**") under the *Income Tax Act* (Canada) (the "**Tax Act**") and *The Labour-Sponsored Venture Capital Corporations Act* (Manitoba) and an approved fund under the *Labour-sponsored Venture Capital Corporations Act* (Saskatchewan). The Filer's investing activities are governed by such legislation (the "**LSIF Legislation**").

4. The Filer primarily invests in small and medium sized businesses with the objective of obtaining long term capital appreciation and must make "eligible investments" in "eligible businesses" as prescribed under the LSIF Legislation.

5. The labour sponsor of the Filer is the Canadian Federation of Labour.

6. The authorized capital of the Filer is as follows:

   (a) an unlimited number of Class A shares issuable in series, of which there are currently 23 series created (including two series of Income Shares and two series of Diversified Shares) and 8 series were offered under the Filer's current long form prospectus dated November 17, 2010, as amended (the "**Prospectus**");

   (b) an unlimited number of Class B shares of which 1,000 Class B shares are held by the labour sponsor of the Filer; and

   (c) an unlimited number of Class C shares issuable in series, of which there is one issued series designated as "IPA shares" and 100 of such shares are held by the Manager of the Filer to provide for a "participating" or "carried" interest in the venture investments of the Filer.

7. The Filer's shares are not listed on an exchange.

8. The Filer is a mutual fund as defined in the *Securities Act* (Ontario).

9. The Filer's investment objective is to achieve long-term capital appreciation by investing in a mix of venture and non-venture investments.

10. All outstanding series of Class A shares of the Filer participate in the same pool of venture investments pursuant to the same venture investment strategies. However, the Filer offers shareholders a different investment focus for non-venture investments.

11. Under the Prospectus, the Filer offered a "menu" of Class A shares (the "**Menu Series**") which consisted of eight series, as illustrated in the chart below: Venture/Diversified Commission I and II, Venture/Growth Commission I and II, Venture/Financial Services Commission I and II and Venture/GIC Commission I and II. The two series in each set of Menu Series, "Commission I" and "Commission II", reflect different commission structures, each corresponding to one of two dealer compensation options.

12. The Filer began offering its Menu Series in 2003.

13. As indicated by their names, the Menu Series are invested pursuant to different non-venture investment strategies with each set of two Menu Series therefore referable to a different portfolio of non-venture investments. Prior to the Filer closing sales of Class A shares on September 30, 2011, holders of Menu Series shares could generally switch from one Menu Series to another having the same commission structure.

14. The Menu Series were offered under the Prospectus until September 30, 2011, when the Filer closed sales of its Class A shares. The Filer previously offered two series of Income Shares which form part of the Menu Series. In connection with the Conversions, the Filer announced on October 7, 2010 that it will no longer offer Income Shares and that the other Menu Series may no longer switch into Income Shares. Consequently, Income Shares are not offered under the Prospectus. Historically, each prospectus of the Filer that qualified the distribution of Income Shares also qualified the distribution of Diversified Shares.

Menu Series proposed for conversion into series opposite its name	**Commission Option**	**Menu Series Prospectus**	**Commission Option**
Venture/Income Class A shares of the Filer	Commission I	Venture/Diversified Class A shares of the Filer	Commission I
	Commission II		Commission II
		Venture/Growth Class A shares of the Filer	Commission I
			Commission II
		Venture/Financial Services Class A shares of Filer	Commission I
			Commission II
		Venture/GIC Commission Class A shares of Filer	Commission I
			Commission II

Since the Filer commenced offering the Menu Series, (i) no material changes have been made to the investment objective or investment strategies of the Diversified Shares, and (ii) no changes to the fee and expense structure for Diversified Shares have been adopted, except for changes that were approved by shareholders in accordance with NI 81-102 and were also adopted on the same terms for Income Shares.

15. As at October 31, 2011, approximately 89% of the Fund's assets (by total value) was attributable to venture investments which are shared among all series of Class A shares and approximately 11% was attributable to non-venture investments, consisting primarily of divestment and other receivables, cash and short term investments all of which are shared among all series of Class A shares. Less than 5% of the non-venture investments held by the Income and Diversified Shares consist of investments specific to these Series' non-venture investment strategies. The Conversions will result in a merger of such series-specific non-venture investments, if any, held by the Income and Diversified Shares at the time of the Conversions.

16. Each series of the Filer's Class A shares that is referable to a separate portfolio of assets is treated as a separate mutual fund under section 1.3 of NI 81-102 and is treated as a separate investment fund for the purpose of reporting financial results under National Instrument 81-106 *Investment Fund Continuous Disclosure* ("**NI 81-106**"). At present, the Filer prepares and files six sets of financial statements and management reports of fund performance ("**MRFPs**") with respect to its 23 series of Class A shares. If two or more series are referable to the same portfolio of assets, the Filer files a single set of financial statements and MRFP for those series. Accordingly, the Filer is required to prepare and file fives sets of financial statements and MRFPs corresponding to each of the five sets of two Menu Series referred to above.

17. The net asset value ("**NAV**") of the Filer and the prices for each series of Class A shares of the Filer are calculated at least weekly, on the last business day of each week. The valuation policies and procedures for all series of Class A shares of the Filer are the same.

18. The management fees for the corresponding series of the Income Shares and Diversified Shares are the same.

19. The Filer is not in default of securities legislation in any jurisdiction.

The Conversions

20. A press release and material change report in respect of the Conversions were filed on SEDAR on October 7, 2011. Shares of the Income Shares ceased to be available for sale on that date. A subsequent press release and material change report were filed on SEDAR on September 30, 2011 and October 7, 2011, respectively, in each case disclosing the Filer's continuing intention to pursue the Conversions, subject to receipt of necessary regulatory and tax approvals.

21. The Conversions are intended to streamline the Filer's share capital structure by eliminating series that have overlapping non-venture investment strategies. The Filer believes that this will also create efficiencies with respect to the manner in which the Filer's financial results are tracked, compiled and reported for these different series of Class A Shares.

22. Shareholders of the Filer approved the Conversions at the Filer's annual and special meeting of shareholders held on June 28, 2011 (the "**AGM**") by way of a vote of all shareholders present or represented at the meeting and by way of separate series votes of holders of the Income Shares and Diversified Shares, in each case by way of a special resolution. In connection with the AGM, shareholders received an information circular dated May 30, 2011 (the "**Circular**") that contained details of the Conversions, including income tax considerations associated with the Conversions, and provided shareholders with information as to how to obtain copies of the Filer's Prospectus. This Prospectus qualifies the sale of the Diversified Shares along with other offered Menu Series as part of the Filer's continuous offering of Class A shares, discloses that the Income Shares are no longer offered under the Prospectus, and explains that the Income Shares are proposed to be converted into the Diversified Shares.

23. The Income Shares' non-venture investment strategies are to invest in high quality debt, high yield investments and investments linked to the performance of securities such as REITs, income trusts, royalty trusts, split share corporation securities, or preferred securities.

24. The current non-venture investment strategies of the Diversified Shares are to invest in high quality debt, high yield investments, investments linked to publicly traded equities and equity and debt securities of banks and other issuers in the financial services sector and issuers in the resource sectors. At the AGM, holders of Diversified Shares approved a change to the non-venture investment strategies of the Diversified Shares. The new non-venture investment strategies will be adopted prior to the effective date of the Conversions, and consist of investing in high quality debt, high yield investments and bank securities. The Circular explained that the Income Shares and Diversified Shares currently have overlapping non-venture investment mandates, and proposed the change to the non-venture investment strategies of the Diversified Shares mentioned above. The rights and restrictions attached to the Diversified Shares are the same as those attached to the Income Shares.

25. The Conversions are proposed to occur on or before November 29, 2011 and will be based on the NAV per share of the Income Shares relative to the NAV per share of the Diversified Shares. Accordingly, and as stated in the Circular, for a holder of Income Shares, the Conversions will result in a change in the number of the shares held but will not change the value of the shareholder's investment on conversion.

26. The Conversions will be effected by amendment to the Filer's Articles adding a conversion feature to each series of Income Shares that permits the Filer to convert the Income Shares into Diversified Shares.

27. The Filer has complied with Part 11 of NI 81-106 in connection with the Conversions.

28. While the Conversions will not represent "qualifying exchanges" under section 132.2 of the Tax Act or tax-deferred transactions under sections 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act, they will qualify as tax-deferred transactions under other provisions of the Tax Act such that holders of Income Shares will not be liable for income tax as a result of the Conversions. A holder's adjusted cost base of Diversified Shares received on conversion of their Income Shares will be deemed to be equal to the average of the adjusted cost base of the converted Income Shares and the adjusted cost base of any other Diversified Shares held by the holder at the time of the conversion.

29. Holders of Income Shares and Diversified Shares were entitled to exercise dissent rights pursuant to and in the manner set forth in Section 190 of the CBCA with respect to the resolutions approving the Conversions. The Circular disclosed that shareholders who exercise dissent rights with respect to their shares will be subject to the requirement to repay federal and provincial tax credits. The Filer did not receive any dissent notices in connection with the Conversions.

30. Each Series of Class A shares of the Filer is priced weekly for purposes of effecting purchases of Series that are on sale and redemptions of all series. The proposed Conversions will not cause any interruption to an investor's ability to redeem his or her investment in Income Shares and Diversified Shares. Any such redemptions may be subject to tax withholdings under applicable LSIF Legislation. The Diversified Shares acquired by holders of the Income Shares

upon the proposed Conversions are subject to the same redemption charges to which their Income Shares were subject prior to the Conversions.

31. Prior to September 30, 2011, Income Shares could switch into other Menu Series.

32. The portfolios and other assets of Income Shares to be converted into Diversified Shares as a result of the Conversions are currently, or will be, acceptable to the Manager of Diversified Shares prior to the effective date of the Conversions, and are or will also be consistent with the investment objectives of Diversified Shares.

33. The Circular referenced the recommendation of the Board of Directors of the Filer that shareholders vote in favour of the resolutions approving the Conversions.

34. Pursuant to National Instrument 81-107 *Independent Review Committee for Investment Funds*, the Independent Review Committee (the "**IRC**") of the Filer reviewed the potential conflict of interest matters related to the Conversions and, after reasonable inquiry, has determined that the Conversions would achieve a fair and reasonable result for the Income Shares and the Diversified Shares. The IRC recommended that the Filer proceed with the Conversions subject to shareholder and regulatory approval.

35. The costs of implementing the Conversions will be borne by the Manager of the Filer.

Approval of the Conversions

36. Approval of the Conversions is required because the Conversions do not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6(1) of NI 81-102 for the following reasons:

    (a) A reasonable person might not consider the non-venture investment objectives of the Diversified Shares to be substantially similar to the non-venture investment objectives of the Income Shares, as required by section 5.6(1)(a)(ii) of NI 81-102;

    (b) The Conversions will not represent "qualifying exchanges" within the meaning of section 132.2 of the Tax Act or be tax-deferred transactions under sections 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act, as required by Section 5.6(1)(b) of NI 81-102;

    (c) Through inadvertence, the materials sent to shareholders did not include copies of the Filer's Prospectus, as amended, as required by Section 5.6(1)(f)(ii) of NI 81-102. However:

        (i) historically, each prospectus of the Filer that qualified the distribution of Income Shares also qualified the distribution of Diversified Shares;

        (ii) since the Filer commenced offering the Menu Series, no material changes have been made to the investment objective or investment strategies of the Diversified Shares, and no changes to the fee and expense structure for Diversified Shares have been adopted, except for changes that were approved by shareholders in accordance with NI 81-102 which were also adopted on the same terms for the Income Shares; and

        (iii) unlike a conventional merger of two separate investment funds, the Income Shares, Diversified Shares and other series of Class A Shares of the Fund participate in the same venture investment portfolio, which as at October 31, 2011 represented approximately 89% of the Filer's assets (by total value), with shared and series-specific non-venture investments representing approximately 11% of the Filer's assets. Less than 5% of the non-venture investments held by the Income and Diversified Shares consist of investments specific to these Series' non-venture investment strategies. The Conversions will result in a merger of such series- specific non-venture investments, if any, held by the Income and Diversified Shares at the time of the Conversions.

    (d) The materials sent to shareholders also did not include a fund facts document of the Filer, as required by Section 5.6(1)(f)(ii) of NI 81-102, or a statement that an annual information form and fund facts document may be obtained from the Filer, as required by Section 5.6(1)(f)(iii) of NI 81-102 because the Filer is a LSVCC and, as such, does not have an annual information form or fund facts document.

    (e) Notwithstanding paragraphs (c) and (d), the Circular sent to shareholders instead did:

(i) contain details of the Conversions, including income tax considerations associated with the Conversions, so as to allow holders of Income Shares to make an informed decision with respect to the Conversions;

(ii) disclose that shareholders may obtain a copy of the Filer's current prospectus, financial statements and MRFPs at no cost by accessing the SEDAR website at www.sedar.com, by accessing the Filer's website at www.growthworks.ca or by calling a toll-free telephone number (in which case the Manager would cause the requested material to be promptly mailed to the requesting shareholder); and

(iii) disclose that the Filer's current prospectus constitutes the Filer's business plan for the current year and that such prospectus describes the risks associated with making an investment in the Filer.

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 Approval is granted.

"Chantal Mainville"
Acting Manager, Investment Funds
Ontario Securities Commission

2.1.8 Cumberland Associates Investment Counsel Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – subsection 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another registered firm – individuals have time to serve both firms – policies in place to handle potential conflicts of interest – clients advised of relationship between affiliated firms – Filer exempted from prohibition.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1, 15.1.

December 1, 2011

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
CUMBERLAND ASSOCIATES
INVESTMENT COUNSEL INC.
(CAIC)

AND

CUMBERLAND PRIVATE WEALTH
MANAGEMENT INC.
(CPWM)

AND

GERALD CONNOR
(the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for relief (the **Relief Sought**) from the requirement under paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to permit Gerald Connor to be registered as both a dealing representative of CPWM and an advising representative of CAIC (the **Dual Registration**).

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

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

(ii) 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 by the Filers in British Columbia, Ontario, and Quebec, (collectively with Ontario, the Jurisdictions).

Interpretation

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

Representations

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

1. CPWM is registered under NI 31-103 as an investment fund manager in Ontario, as a derivatives dealer in Quebec and as a dealer in the category of investment dealer in each Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan CPWM is a member of Investment Industry Regulatory Organization of Canada (**IIROC**). The head office of CPWM is located in Ontario.

2. CAIC is registered under NI 31-103 as an adviser in the category of portfolio manager in British Columbia, Ontario and Quebec. The head office of CAIC is located in Ontario. CAIC is also registered as adviser with the United States Securities and Exchange Commission.

3. Each of the Filers is a direct wholly-owned subsidiary of Cumberland Partners Ltd. (**CPL**).

4. Neither of the Filers is in default of any requirements of securities legislation in any jurisdiction of Canada.

5. Gerald Connor is registered as a dealing representative and ultimate designated person of CPWM in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island,

Quebec and Saskatchewan, and as a derivatives representative in Quebec. Gerald Connor is authorized by IIROC to manage investment portfolios on a discretionary basis. He is resident in Ontario.

6. Although CPWM is registered as an investment dealer, its business primarily consists of providing discretionary investment management services. CPWM does not engage in corporate finance or underwriting activities. CPWM offers a variety of model portfolios to its clients. These model portfolios are also offered to clients of CAIC.

7. Both CPWM and CAIC service predominantly high net worth individuals.

8. Currently there are a number of individuals registered as dealing representatives with CPWM who are also registered as advising representatives with CAIC. This dual registration permits the individuals acting as portfolio manager of the model portfolio to make trades simultaneously and apply the same average price for all the accounts using the same model.

9. The Filers are each wholly-owned subsidiaries of CPL and accordingly, the Dual Registration will not give rise to the conflicts of interest present in a similar arrangement involving unrelated, arm's length firms. The interests of CPWM and CAIC are aligned and therefore, the potential for conflicts of interest is remote.

10. The Filers have in place policies and procedures to address conflicts of interest that may arise as a result of the Dual Registration, and believe that they will be able to appropriately deal with these conflicts.

11. The Dual Registration will be disclosed to clients of CPWM and CAIC.

12. In the absence of the Requested Relief, the Filers would be prohibited from permitting Gerald Connor to act as an advising representative of CAIC while he is registered as a dealing representative of CPWM even though CAIC is an affiliate of CPWM.

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 Relief Sought is granted.

"Erez Blumberger"
Deputy Director, Compliance and Registrant Regulation
Ontario Securities Commission

2.1.9 Central Fund of Canada Limited

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – the Filer requests relief from the requirements under Part 3 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards requiring financial statements to be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises which has incorporated International Financial Reporting Standards (IFRS) to permit the Filer to prepare it financial statements in accordance with Canadian GAAP – Part V for its financial year that begins on 1 November 2011 and ending on 31 October 2012 and for its financial year that begins on 1 November 2012 and ending on 31 October 2013 (collectively the Filer's deferred financial years). The Filer also requests relief from the IFRS-related amendments to National Instrument 51-102 Continuous Disclosure Obligations, National Instrument 41-101 General Prospectus Requirements, National Instrument 44-101 Short Form Prospectus Distributions, National Instrument 44-102 Shelf Distributions, National Instrument 52-109 Certification of Disclosure in Issuer's Annual and Interim Filings and National Instrument 52-110 Audit Committee that came into force on 1 January 2011 and that would apply to periods relating to the Filer's deferred financial years.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, Parts 3 and 4.
National Instrument 51-102 Continuous Disclosure Obligations.
National Instrument 41-101 General Prospectus Requirements.
National Instrument 44-101 Short Form Prospectus Distributions.
National Instrument 44-102 Shelf Distributions.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.
National Instrument 51-110 Audit Committees.

Citation: Central Fund of Canada Limited, Re, 2011 ABASC 595

November 29, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA AND ONTARIO
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
CENTRAL FUND OF CANADA LIMITED
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption (the **Exemption Sought**) from:

(a) the requirements in Part 3 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that apply to financial statements, financial information, operating statements and *pro forma* financial statements for periods relating to the Filer's financial year beginning on November 1, 2011 and ending on October 31, 2012 and the Filer's financial year beginning on November 1, 2012 and ending on October 31, 2013 (the **Filer's deferred financial years**);

(b) the amendments to National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) related to International Financial Reporting Standards (**IFRS**) that came into force on January 1, 2011 and that apply to documents required to be prepared, filed, delivered, or sent under NI 51-102 for periods relating to the Filer's deferred financial years;

(c) the IFRS-related amendments to National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) that came into force on January 1, 2011 and that apply to a preliminary prospectus, an amendment to a preliminary prospectus, a final prospectus or an amendment to a final prospectus of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(d) the IFRS-related amendments to National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) that came into force on January 1, 2011 and that apply to a preliminary short form prospectus, an amendment to a preliminary short form prospectus, a final short form prospectus or an amendment to a final short form prospectus of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(e) the IFRS-related amendments to National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) that came into force on January 1, 2011 and that apply to a preliminary base shelf prospectus, an amendment to a preliminary base shelf prospectus, a base shelf prospectus, an amendment to a base shelf prospectus or a shelf prospectus supplement of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(f) the IFRS-related amendments to National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**) that came into force on January 1, 2011 and that apply to annual filings and interim filings for periods relating to the Filer's deferred financial years; and

(g) the IFRS-related amendments to National Instrument 52-110 *Audit Committees* (**NI 52-110**) that came into force on January 1, 2011 and that apply to periods relating to the Filer's deferred financial years.

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

(a) the Alberta Securities Commission is the principal regulator for the application;

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

(c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* or 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:

1. The Filer was incorporated under the laws of Ontario on November 15, 1961 and continued into Alberta on April 5, 1990.

2. The Filer's head office is located in Calgary, Alberta.

3. The Filer is a reporting issuer in all provinces and territories in Canada and to its knowledge is not in default of securities legislation in any jurisdiction.

4. The Filer's Class A non-voting, fully participating shares trade on the Toronto Stock Exchange under the symbols "CEF.A" (**Cdn. $**) and "CEF.U" (**US $**).

5. The Filer's fiscal year end is October 31.

6. The Filer is an "investment company" as defined in Accounting Guideline 18 Investment Companies (AcG-18) in the Handbook (the **Handbook**) of the Canadian Institute of Chartered Accountants (**CICA**). As such, the Filer applies AcG-

18 in the preparation of its financial statements in accordance with Canadian generally accepted accounting principles (**Canadian GAAP**) for public enterprises.

7. The Filer is not an investment fund as that term is defined in the *Securities Act* (Ontario).

8. As part of the changeover to IFRS in Canada, the Canadian Accounting Standards Board (the **AcSB**) has incorporated IFRS into the Handbook as Canadian GAAP for most publicly accountable enterprises. As a result, the Handbook contains two sets of standards for public companies:

   (a) Part 1 of the Handbook – Canadian GAAP for publicly accountable enterprises that applies for financial years beginning on or after January 1, 2011; and

   (b) Part V of the Handbook – Canadian GAAP for public enterprises that is the pre-changeover accounting standards (**old Canadian GAAP**).

9. However, on October 1, 2010, the AcSB published amendments to Part 1 of the Handbook that provide a one-year deferral of the transition to IFRS for investment companies. The amendments require investment companies, as defined in and applying AcG-18, to adopt IFRS for annual periods beginning on or after January 1, 2012. Subsequently, the AcSB extended the deferral for an additional year, such that investment companies, as defined in and applying AcG-18, are only required to adopt IFRS for annual periods beginning on or after January 1, 2013.

10. As part of the changeover to IFRS, NI 52-107 was repealed and replaced effective January 1, 2011. In the new version of NI 52-107;

   (a) part 3 contains requirements based on IFRS and applies to financial statements, financial information, operating statements and pro forma financial statements for periods relating to financial years beginning on or after January 1, 2011; and

   (b) part 4 contains requirements based on old Canadian GAAP and applies to financial statements, financial information, operating statements and *pro forma* financial statements for periods relating to financial years beginning before January 1, 2011.

11. Also as part of the changeover to IFRS, IFRS-related amendments were made to NI 51-102, NI 41-101, NI 44-101, NI 44-102, NI 52-109 and NI 52-110 (collectively, the **Rules**) and these amendments came into force on January 1, 2011. Among other things, the amendments replace old Canadian GAAP terms and phrases with IFRS terms and phrases and contain IFRS-specific requirements. The amendment instruments for the Rules contain transition provisions that provide that the IFRS-related amendments only apply to documents required to be filed under the Rules for periods relating to financial years beginning on or after January 1, 2011. Thus, during the IFRS transition period:

   (a) issuers filing financial statements prepared in accordance with old Canadian GAAP will be required to comply with the versions of the Rules that contain old Canadian GAAP terms and phrases; and

   (b) issuers filing financial statements that comply with IFRS will be required to comply with the versions of the Rules that contain IFRS terms and phrases and IFRS-specific requirements.

12. On October 8, 2010, the Canadian Securities Administrators (**CSA**) published CSA Staff Notice 81-320 *Update on International Financial Reporting Standards for Investment Funds*, as revised on March 23, 2011, which indicated that, given the October 1, 2010 and March 2011 amendments to the Handbook that provided for a deferral of the transition to IFRS for investment companies, the CSA would defer finalizing IFRS-related amendments to rules related to investment funds, with the stated goal of having the necessary IFRS related amendments for investment funds in force by January 1, 2013.

13. NI 52-107 and the Rules apply to the Filer. Since Part 3 of NI 52-107 and the IFRS-related amendments to the Rules do not have a provision providing for a two-year deferral of the transition to IFRS for investment companies subject to NI 52-107 and the Rules, the Filer has applied for the Exemption Sought.

14. During the Filer's deferred financial years, the Filer will comply with section 1.13 of Form 51-102F1 *Management's Discussion and Analysis* (**MD&A**) by providing an updated discussion of the Filer's preparations for changeover to IFRS in its annual and interim MD&A. In particular, the Filer will discuss the expected effect on the financial statements, or state that the effect cannot be reasonably estimated.

15. The Filer acknowledges that if the Exemption Sought is granted, the Filer:

(a) will be subject to Part 3 of NI 52-107 and the IFRS-related amendments to the Rules for periods relating to financial years beginning on or after January 1, 2013; and

(b) will not have the benefit of the 30 day extension to the deadline of filing the first interim financial report in the year of adopting IFRS in respect of an interim period beginning on or after January 1, 2011, as set out in the IFRS-related amendments to NI 51-102, since that extension does not apply if the first interim financial report is in respect of an interim period ending after March 30, 2012.

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 Filer continues to be an investment company, as defined in and applying AcG-18;

(b) the Filer provides the communication as described and in the manner set out in paragraph 14 above;

(c) the Filer complies with the requirements in Part 4 of NI 52-107 for all financial statements (including interim financial statements), financial information, operating statements and *pro forma* financial statements for periods relating to the Filer's deferred financial years, as if the expression "January 1, 2011" in subsection 4.1(2) were read as "January 1, 2013";

(d) the Filer complies with the version of NI 51-102 that was in effect on December 31, 2010 (together with any amendments to NI 51-102 that are not related to IFRS and that come into force after January 1, 2011) for all documents required to be prepared, filed, delivered, or sent under NI 51-102 for periods relating to the Filer's deferred financial years;

(e) the Filer complies with the version of NI 41-101 that was in effect on December 31, 2010 (together with any amendments to NI 41-101 that are not related to IFRS and that come into effect after January 1, 2011) for any preliminary prospectus, amendment to a preliminary prospectus, final prospectus or amendment to a final prospectus of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(f) the Filer complies with the version of NI 44-101 that was in effect on December 31, 2010 (together with any amendments to NI 44-101 that are not related to IFRS and that come into effect after January 1, 2011) for any preliminary short form prospectus, amendment to a preliminary short form prospectus, final short form prospectus or amendment to a final short form prospectus of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(g) the Filer complies with the version of NI 44-102 that was in effect on December 31, 2010 (together with any amendments to NI 44-102 that are not related to IFRS and that come into effect after January 1, 2011) for any preliminary base shelf prospectus, amendment to a preliminary base shelf prospectus, base shelf prospectus, amendment to a base shelf prospectus or shelf prospectus supplement of the Filer which includes or incorporates by reference financial statements of the Filer in respect of periods relating to the Filer's deferred financial years;

(h) the Filer complies with the version of NI 52-109 that was in effect on December 31, 2010 (together with any amendments to NI 52-109 that are not related to IFRS and that come into effect after January 1, 2011) for all annual filings and interim filings for periods relating to the Filer's deferred financial years;

(i) the Filer complies with the version of NI 52-110 that was in effect on December 31, 2010 (together with any amendments to NI 52-110 that are not related to IFRS and that come into effect after January 1, 2011) for periods relating to the Filer's deferred financial years;

(j) if, notwithstanding this decision, the Filer decides not to rely on the Exemption Sought and files an interim financial report prepared in accordance with IFRS for an interim period in a deferred financial year, the Filer must, at the same time:

(i) restate, in accordance with IFRS, any interim financial statements for any previous interim period in the same deferred financial year (each, a **Previous Interim Period**) that were originally prepared in accordance with old Canadian GAAP and filed pursuant to this decision; and

(ii) file a restated interim financial report prepared in accordance with IFRS for each Previous Interim Period, together with corresponding restated interim MD&A and certificates required by NI 52-109. For greater certainty, any restated interim financial report for a Previous Interim Period must comply with applicable securities legislation (including Part 3 of NI 52-107 and the amendments to Part 4 of NI 51-102 that came into force on January 1, 2011) and any restated interim financial report for the first interim period in the deferred financial year must include the opening IFRS statement of financial position at the date of transition to IFRS; and

(k) if, notwithstanding this decision, the Filer decides not to rely on the Exemption Sought and files annual financial statements prepared in accordance with IFRS for a deferred financial year, the Filer must, at the same time (unless previously done pursuant to paragraph (j) immediately above):

(i) restate, in accordance with IFRS, any interim financial statements for any Previous Interim Period that were originally prepared in accordance with old Canadian GAAP and filed pursuant to this decision; and

(ii) file a restated interim financial report prepared in accordance with IFRS for each Previous Interim Period, together with corresponding restated interim MD&A and certificates required by NI 52-109. For greater certainty, any restated interim financial report for a Previous Period must comply with applicable securities legislation (including Part 3 of NI 52-107 and the amendments to Part 4 of NI 51-102 that came into force on January 1, 2011) and any restated interim financial report for the first interim period in the deferred financial year must include the opening IFRS statement of financial position at the date of transition to IFRS.

“Blaine Young”
Associate Director, Corporate Finance

2.1.10 Perimeter Markets Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from the requirement to engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards – relief subject to updated management reviews of systems and controls similar in scope to that which would have applied to an independent systems review – National Instrument 21-101 Marketplace Operation.

Applicable Legislative Provisions

National Instrument 21-101 Marketplace Operation, s.12.2.

November 30, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, QUÉBEC, ONTARIO, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND AND NEWFOUNDLAND AND LABRADOR
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
PERIMETER MARKETS INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for relief from the requirements in the Legislation that the Filer annually engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards (collectively, an "ISR") for each year from 2011 to 2013 inclusive (the Exemptive Relief Sought).

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

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

1. Perimeter Markets Inc. ("Perimeter") is a corporation established under the laws of the Province of Ontario and its principal business is to operate an alternative trading system ("ATS") as defined in National Instrument 21-101 Marketplace Operation;

2. The head office of Perimeter is located in Toronto, Ontario;

3. Perimeter is a member of the Investment Industry Regulatory Organization of Canada ("IIROC"), the Canadian Investor Protection Fund ("CIPF") and the Bourse de Montréal and is registered in all provinces as a dealer in the category of investment dealer, as a derivative dealer in Québec and as a futures commission merchant in Ontario and Manitoba;

4. Bondview and CBID are trademarks of Perimeter;

5. The Perimeter System is an ATS exclusively for trading over-the-counter fixed income securities;

6. The Perimeter System is not connected to any other fixed income marketplace, and cannot affect another fixed income marketplace or be affected by another fixed income marketplace;

7. For each of its systems that support order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, Perimeter has developed and maintains:

   - reasonable business continuity and disaster recovery plans;
   - an adequate system of internal control over those systems;
   - adequate information technology general controls, including without limitation, controls relating to information systems operations, information security, change management, problem management, network support and system software support;

8. In accordance with prudent business practice, on a reasonably frequent basis and, in any event, at least annually, Perimeter:

   - makes reasonable current and future capacity estimates;
   - conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
   - tests its business continuity and disaster recovery plans; and
   - reviews the vulnerability of the Perimeter System and data centre computer operations to internal and external threats including physical hazards, and natural disasters;

9. Perimeter's current trading and order entry volumes in the Perimeter System are less than 10% of the current design and peak capacity of the Perimeter System and Perimeter has not experienced any failure of the Perimeter System;

10. The Perimeter System transaction volume is less than 300 trades per day;

11. The estimated cost to Perimeter of an annual audit by a qualified third party would represent over 5% of Perimeter's annual net income;

12. The Perimeter System is monitored 24 hours a day, 7 days a week to ensure that all components continue to operate and remain secure;

13. Perimeter shall promptly notify the Commission of any failure to comply with the representations set out herein;

14. The cost of an ISR is prejudicial to Perimeter and represents a disproportionate impact on Perimeter's revenue.

Decision

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

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

1. Perimeter shall promptly notify the Commission of any material changes to the representations set out herein, including any material changes to Perimeter's annual net income or to the market share or daily transaction volume of the Perimeter System; and

2. Perimeter shall, in each year from 2011 to 2013 inclusive, complete updated management reviews of the Perimeter System and of its controls, similar in scope to that which would have applied had Perimeter undergone an independent systems review, for ensuring it continues to comply with the representations set out herein and shall prepare written reports of its reviews which shall be filed with staff of the Commission no later than 30 days after January 1st of each year (excluding the year 2011 for which the written report shall be filed no later than 30 days from the date of this order).

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

2.1.11 Seamark Asset Management Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the mutual fund self-dealing restrictions in the Securities Act (Ontario) and the conflicts of interest provisions in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to allow pooled funds to invest in securities of underlying funds under common management – relief subject to certain conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(2)(c), 111(3), 113, 117(1)(a), 117(1)(d), 117(2).
National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations, ss. 13.5(2)(a), 15.1.

November 30, 2011

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
SEAMARK ASSET MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
SEAMARK POOLED MONEY MARKET FUND,
SEAMARK POOLED BALANCED FUND,
SEAMARK POOLED CANADIAN BOND FUND,
SEAMARK POOLED CANADIAN EQUITY FUND,
SEAMARK POOLED U.S. EQUITY FUND,
SEAMARK POOLED INTERNATIONAL EQUITY FUND, SEAMARK POOLED FOREIGN EQUITY FUND AND SEAMARK POOLED CANADIAN SMALL CAP FUND
(the Pooled Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on its own behalf and on behalf of the Pooled Funds, and any other investment fund which is not a reporting issuer under the *Securities Act* (Ontario) (the **Act**) established and managed by the Filer after the date hereof (the **Future Pooled Funds**, together with the Pooled Funds, the **Top Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) for an exemption (the **Exemption Sought**) from:

1. the restriction contained in paragraphs 111(2)(b) and 111(2)(c) and subsection 111(3) of the Act that prohibits a mutual fund in Ontario from knowingly making and holding an investment:

    (i) in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder, or

(ii) in an issuer in which any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, has a significant interest,

(the **Related Issuer Restriction Relief**);

2. the reporting requirements contained in sub-paragraphs 117(1)(a) and 117(1)(d) of the Act that requires the filing of a report relating to a purchase or sale of securities between a mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, a mutual fund is a joint participant with one or more of its related persons or companies, in respect of each mutual fund to which it provides services or advice, within 30 days after the end of a month in which it occurs (the **Reporting Requirement Relief**); and

3. the restriction in sub-clause 13.5(2)(a)(ii) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) that prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase securities of an issuer in which a responsible person or an associate of the responsible person is a partner, officer or director unless the fact is disclosed to the client and written consent of the client to the purchase is obtained before the purchase (the **Consent Restriction Relief**).

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 section 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, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the **Non-Principal Passport Jurisdictions**).

Representations

The decision is based on the following facts represented by the Filer:

The Filer

1. The Filer is a corporation incorporated under the laws of Canada. The Filer is a wholly-owned subsidiary of Matrix Asset Management Inc. (**Matrix**), a reporting issuer. The common shares of Matrix are listed on The Toronto Stock Exchange.

2. The head office of the Filer is located in Nova Scotia. The Filer has selected Ontario as the principal regulator because the Related Issuer Restriction Relief and the Reporting Requirement Relief is only required in Ontario. The Consent Restriction Relief is required in all the Non-Principal Passport Jurisdictions.

3. The Filer is registered as an investment fund manager in Nova Scotia and a portfolio manager and exempt market dealer in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador.

4. The Filer is not a reporting issuer in any jurisdiction of Canada and is not in default of securities legislation in any province or territory of Canada.

5. The Filer or an affiliate is, or will be, the manager and portfolio manager for the Top Funds and the Underlying Funds (defined below).

Top Funds

6. Each of the Top Funds is, or will be, a trust under the laws of the Province of Ontario, the securities of which are, or will be, offered for sale on a private placement basis pursuant to available prospectus exemptions under National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**). Currently, the only Top Funds are the Pooled Funds.

7. Each of the Top Funds is, or will be, a “mutual fund” as defined in securities legislation of the jurisdictions in which the Top Funds are distributed.

8. None of the Top Funds is, or will be, a reporting issuer in any jurisdiction of Canada.

9. None of the Top Funds is in default of any securities legislation of any jurisdiction in Canada.

10. Subject to obtaining the Exemption Sought, the Top Funds may invest (**Fund-on-Fund Investing**) all, or a certain portion, of their assets in other investment funds established and managed by the Manager, or an affiliate of the Manager, to which National Instrument 81-102 – *Mutual Funds* (NI 81-102) applies (the **Underlying NI 81-102 Funds**) or the Pooled Funds (the **Underlying Pooled Funds**, together with the NI 81-102 Funds, the **Underlying Funds**).

Underlying Funds

11. Each of the Underlying NI 81-102 Funds is, or will be, an open-ended mutual fund trust established under the laws of the Province of Ontario or of Canada or a mutual fund corporation established under the laws of the Province of Ontario or of Canada. The securities of the Underlying NI 81-102 Funds are offered for sale pursuant to a simplified prospectus and annual information form. Currently, the only Underlying NI 81-102 Funds are the Matrix group of mutual funds.

12. Each of the Underlying NI 81-102 Funds is, or will be, subject to NI 81-102, including restrictions with respect to investing in other mutual funds.

13. Each of the Underlying Pooled Funds is, or will be, a trust under the laws of the Province of Ontario, the securities of which are, or will be, offered for sale on a private placement basis pursuant to available prospectus exemptions under NI 45-106. Currently, the only Underlying Pooled Funds are the Pooled Funds.

14. Each of the Underlying Pooled Funds is, or will be, a "mutual fund" as defined in the securities legislation of the jurisdictions in which the Underlying Pooled Funds are distributed.

15. Each of the Underlying Funds has, or will have, separate investment objectives, strategies and/or restrictions.

16. The Underlying Funds will invest primarily in publicly traded equity securities, fixed income securities or cash equivalent securities, as applicable pursuant to their investment objectives, strategies and/or restrictions.

17. Each of the Underlying NI 81-102 Funds is, or will be, a reporting issuer in each of the provinces of Canada. None of the Underlying Pooled Funds is, or will be, a reporting issuer in any jurisdiction of Canada.

18. None of the Underlying Funds is in default of any securities legislation of any jurisdiction in Canada.

Fund on Fund Investing

19. Investing in an Underlying Fund will allow the Top Funds to achieve their investment objectives in the most cost efficient way and will not be detrimental to the interests of other securityholders of the Underlying Funds.

20. An investment by a Top Fund in an Underlying Fund can provide greater diversification for a Top Fund in particular asset classes on a less expensive basis than investing directly in the securities held by the applicable Underlying Fund.

21. An investment by a Top Fund in an Underlying Fund is, or will be, compatible with the investment objectives of the Top Fund.

22. The amounts invested from time to time in an Underlying Fund by a Top Fund may exceed 20% of the outstanding voting securities of the Underlying Fund. As a result, each Top Fund could, either alone or together with other Top Funds, become a substantial securityholder of an Underlying Fund. The Top Funds are, or will be, related mutual funds to the Underlying Funds by virtue of the common management by the Filer or an affiliate or related party of the Filer.

23. Since the Pooled Funds do not offer their securities under a simplified prospectus, they are not subject to NI 81-102 and therefore the Pooled Funds are unable to rely upon the exemption codified under sub-section 2.5(7) of NI 81-102.

24. The investments held by the Underlying Pooled Funds are considered to be liquid.

25. The Top Funds and the Underlying Funds have matching valuation dates and are valued daily.

26. Securities of both the Top Funds and the Underlying Funds can be redeemed on any valuation date.

27. A Top Fund will not purchase or hold securities of an Underlying Fund unless:

(a) at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of the market value of its net assets in securities of other mutual funds, or

(b) the Underlying Fund:

(i) links its performance to the performance to one other mutual fund, i.e. a clone fund,

(ii) purchases or holds securities of a "money market fund" as defined by NI 81-102, or

(iii) purchases or holds securities that are "index participation units" as defined by NI 81-102 and issued by a mutual fund.

28. The Filer will ensure that the arrangements between or in respect of a Top Fund and an Underlying Fund in respect of Fund-on-Fund Investing avoid the duplication of management fees and incentive fees. The Filer and its affiliates do not charge, and will not charge, any management fee or incentive fee to the Top Funds. Each client of the Filer that invests in any of the Top Funds enters into an agreement under which the client pays a fee to the Filer directly in respect of all assets of the client under management by the Filer.

29. There will be no sales fees or redemption fees payable by a Top Fund in respect of an acquisition, disposition or redemption of securities of an Underlying Fund by the Top Fund.

30. Prior to time of purchase of securities of a Top Fund, a purchaser will be provided with a copy of the Top Fund's offering memorandum, where available, as well as disclosure about the relationships and potential conflicts of interest between the Top Fund and the Underlying Funds.

31. The Filer will provide to investors in a Top Fund written disclosure (which may include disclosure in an offering memorandum, where available, or other disclosure document of a Top Fund) which sets out:

(a) the intent of the Top Fund to invest its assets in securities of the Underlying Funds;

(b) that the Underlying Funds are managed by the Filer or an affiliate of the Filer;

(c) the approximate percentage of net assets of the Top Fund that the Top Fund intends to invest in securities of the Underlying Funds; and

(d) the process or criteria used to select the Underlying Funds.

32. Each of the Pooled Funds and the Underlying NI 81-102 Funds will prepare annual financial statements and interim unaudited financial statements in accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure* (**NI 81-106**) and will otherwise comply with the requirements of NI 81-106 applicable to them. The holdings by a Top Fund of securities of an Underlying Fund will be disclosed in the financial statements.

33. The securityholders of a Top Fund will receive, on request, a copy of the prospectus, offering memorandum or other similar document, if available, and the audited financial statements and interim financial statements of any Underlying Fund in which the Top Fund invests.

34. The Filer will not cause the securities of an Underlying Fund held by a Top Fund to be voted at any meeting of the securityholders of an Underlying Fund, unless the Top Fund is the sole owner of the securities of the Underlying Fund at the time of the meeting or the effective date of the resolution, in which case the Filer will arrange for all the securities the Top Fund holds of the Underlying Fund to be voted by the beneficial holders of securities of the Top Fund.

35. Any investment by a Top Fund in securities of an Underlying Fund will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Fund and the Underlying Fund.

36. In the absence of the Related Issuer Restriction Relief, the Top Funds would be precluded from implementing Fund-on-Fund Investing. Since the Pooled Funds do not offer their securities under a simplified prospectus, they are not subject to NI 81-102 and therefore the Pooled Funds are unable to rely upon the exemption codified under sub-section 2.5(7) of NI 81-102.

37. Unless the Reporting Requirement Relief is granted, to the extent that a Top Fund would be a "related person or company" of an Underlying NI 81-102 Fund, the Filer would have to report to the regulator every sale of securities made from that Underlying NI 81-102 Fund to the Top Fund.

38. In the absence of the Consent Restriction Relief, each Top Fund would be precluded from investing in an Underlying Fund, unless the consent of each investor in the Top Fund is obtained, since the Filer or an officer and/or director of the Filer (considered a responsible person within the meaning of the applicable provisions of NI 31-103) may also be an officer and/or director of, or may person a similar function for or occupy a similar position with the Underlying Fund.

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) securities of the Top Funds are distributed in Canada only under an exemption from the prospectus requirements in NI 45-106;

(b) the investment by a Top Fund in an Underlying Fund is compatible with the fundamental objectives of the Top Fund;

(c) no management fees or incentive fees are payable by a Top Fund that, to a reasonable person, would duplicate a fee payable by the Underlying Fund for the same service;

(d) no sales or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of the securities of the Underlying Funds;

(e) a Top Fund will not purchase or hold securities of an Underlying Fund unless:

  (i) at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of the market value of its net assets in securities of other mutual funds, or

  (ii) the Underlying Fund:

    A. links its performance to the performance to one other mutual fund, i.e. a clone fund,

    B. purchases or holds securities of a “money market fund” as defined by NI 81-102, or

    C. purchases or holds securities that are “index participation units” as defined by NI 81-102 and issued by a mutual fund.

(f) the Filer does not vote any of the securities a Top Fund holds in an Underlying Fund, but the Filer may, if it chooses, arrange for all of the securities of the Underlying Funds held by Top funds to be voted by the beneficial owners of units of the Top Funds;

(g) the offering memorandum, where available, or other disclosure document of a Top Fund will disclose:

  (i) the intent of the Top Fund to invest its assets in securities of the Underlying Funds;

  (ii) that the Underlying Funds are managed by the Filer or an affiliate of the Filer;

  (iii) the approximate percentage of net assets of the Top Fund that the Top Fund intends to invest in securities of the Underlying Funds; and

  (iv) the process or criteria used to select the Underlying Funds;

(h) prior to the time of investment, securityholders of a Top Fund will be provided with disclosure with respect to each person, if any, that has a significant interest in the Underlying Fund through investments made in securities of such Underlying Fund. Securityholders in a Top Fund will also be advised of the potential conflicts of interest which may arise from such relationships. The foregoing disclosure will be contained in any offering memorandum prepared in connection with a distribution of securities of the Top Fund, or if no offering memorandum is prepared, in another document provided to investors of the Top Fund.

“Darren McKall”
Manager, Investment Funds Branch
Ontario Securities Commission

"Vern Krishna"
Commissioner
Ontario Securities Commission

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

2.2 Orders

2.2.1 Majestic Supply Co. Inc. 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
MAJESTIC SUPPLY CO. INC.,
SUNCASTLE DEVELOPMENTS CORPORATION,
HERBERT ADAMS, STEVE BISHOP,
MARY KRICFALUSI, KEVIN LOMAN AND
CBK ENTERPRISES INC.

ORDER
(Section 127)

WHEREAS on October 20, 2010, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), accompanied by the Statement of Allegations dated October 20, 2010 filed by Staff of the Commission ("Staff") with respect to Majestic Supply Co. Inc. ("Majestic"), Suncastle Developments Corporation ("Suncastle"), Herbert Adams ("Adams"), Steve Bishop ("Bishop"), Mary Kricfalusi ("Kricfalusi"), Kevin Loman ("Loman") and CBK Enterprises Inc. ("CBK") collectively referred to as the "Respondents";

WHEREAS the Notice of Hearing set a hearing in this matter for November 23, 2010 at 2:30 p.m.;

AND WHEREAS on November 23, 2010, counsel for Adams and Suncastle, counsel for Kricfalusi and CBK, counsel for Loman, Rob Biegerl as former president of Majestic and Bishop on his own behalf and as the current president of Majestic, all attended the hearing;

AND WHEREAS Staff and counsel for Adams have advised that on October 12, 2010, Adams was charged by the Halton Regional Police Service with four counts of fraud over $5,000 relating to his involvement with Majestic and Suncastle and has retained criminal counsel to represent him in the criminal proceedings;

AND WHEREAS counsel for Adams has requested that criminal counsel for Adams be permitted to review Staff's electronic disclosure for the purpose of permitting Adams to make full answer and defence in the criminal proceedings (the "Adams' Disclosure Request");

AND WHEREAS on November 23, 2010, the Commission ordered: (i) the hearing adjourned to January 25, 2011; and (ii) limits on the use of Staff's electronic disclosure;

AND WHEREAS Staff has advised that Staff's electronic disclosure was provided to the parties on December 9, 2010;

AND WHEREAS by letter dated January 20, 2011, counsel for Adams and Suncastle and counsel for Kricfalusi and CBK requested further particulars relating to both the Statement of Allegations and Staff's electronic disclosure;

AND WHEREAS on January 25, 2011, on consent of Staff, counsel for Adams and Suncastle, counsel for Kricfalusi and CBK, counsel for Loman and Steve Bishop on behalf of Majestic and himself, the Commission adjourned the hearing to a pre-hearing conference on March 1, 2011 at 2:00 p.m. to permit the parties to discuss any preliminary issues;

AND WHEREAS by letter dated February 9, 2011, Staff responded to the various requests for further particulars;

AND WHEREAS on March 1, 2011, Staff has advised that Staff's electronic disclosure does not contain any documents compelled under section 13 of the Act;

AND WHEREAS on March 1, 2011, the Commission ordered that: (i) the hearing on the merits will start on November 7, 2011 at 10:00 a.m. and continue on November 9 to 11, 14 to 18, 21, 23 to 25, 28 to 30, 2011 and December 1 and 2, 2011; and (ii) another pre-hearing conference will be held on April 26, 2011 at 2:30 p.m.;

AND WHEREAS on March 1, 2011, the Commission further ordered that a copy of Staff's electronic disclosure shall be provided to criminal counsel for Herbert Adams and to the Halton Regional Police Services in order to address Adams' Disclosure Request;

AND WHEREAS the hearing in this matter commenced November 7, 2011;

AND WHEREAS motions were brought on November 7, 2011 for leave to be removed as counsel of record by: (i) Gowling Lafleur Henderson LLP and Clifford Cole of that firm, in particular, as counsel for Adams and Suncastle; and (ii) Sheppard Brown Rosenthal and Tom Sheppard of that firm, in particular, as counsel for Kricfalusi and CBK;

AND WHEREAS Sack Goldblatt Mitchell LLP and Andrew Furgiuele of that firm, in particular, has filed a Notice of Change of Lawyer advising of his appointment as counsel of record for Adams for the limited purpose of cross-examining certain witnesses and advising that Adams, for all other parts of this hearing, will represent himself in the hearing in this matter;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED that Gowling Lafleur Henderson LLP and Clifford Cole of that firm, in particular, is granted leave to withdraw as counsel of record for Adams and Suncastle;

IT IS FURTHER ORDERED that Sheppard Brown Rosenthal and Tom Sheppard of that firm, in particular, is granted leave to withdraw as counsel of record for Kricfalusi and CBK; and

IT IS FURTHER ORDERED that Sack Goldblatt Mitchell LLP and Andrew Furgiuele of that firm, in particular, is permitted to act on behalf of Adams for the limited purpose of cross-examining certain witnesses and that otherwise Adams will represent himself in the hearing in this matter.

DATED at Toronto, this 7th day of November, 2011.

"Edward P. Kerwin"

"Paulette L. Kennedy"

2.2.2 Ameron Oil and Gas Ltd. et al. – ss. 37, 127(1)

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

AND

IN THE MATTER OF
AMERON OIL AND GAS LTD., MX-IV LTD.,
GAYE KNOWLES, GIORGIO KNOWLES,
ANTHONY HOWORTH, VADIM TSATSKIN,
MARK GRINSHPUN, ODED PASTERNAK,
AND ALLAN WALKER

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MARK GRINSHPUN

ORDER
(Section 37 and Subsection 127(1))

WHEREAS by Notice of Hearing dated December 13, 2010, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on December 20, 2010, pursuant to sections 37, 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 orders, as specified therein, against Ameron Oil and Gas Ltd., MX-IV LTD. ("MX-IV"), Gaye Knowles, Giorgio Knowles, Anthony Howorth, Vadim Tsatskin, Mark Grinshpun ("Grinshpun"), Oded Pasternak and Allan Walker. The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff") dated December 13, 2010;

AND WHEREAS Staff filed an Amended Statement of Allegations dated October 5, 2011;

AND WHEREAS Grinshpun entered into a settlement agreement with Staff dated October 19, 2011 and November 25, 2011 (the "Settlement Agreement") in which Grinshpun agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated December 13, 2010, subject to the approval of the Commission;

WHEREAS on November 25, 2011, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notices of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from counsel for Grinshpun and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Grinshpun cease permanently;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Grinshpun is prohibited permanently;

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

(e) pursuant to clause 6 of subsection 127(1) of the Act, Grinshpun is reprimanded;

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

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

(h) pursuant to clause 9 of subsection 127(1) of the Act, Grinshpun shall pay an administrative penalty in the amount of $250,000 for his failure to comply with Ontario securities law, the said amount being hereby designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing securities of MX-IV, in accordance with subsection 3.4(2)(b) of the Act;

(i) pursuant to clause 10 of subsection 127(1) of the Act, Grinshpun shall disgorge to the Commission the amount of $615,500 obtained as a result of his non-compliance with Ontario securities law, the said amount being hereby designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing securities of MX-IV, in accordance with subsection 3.4(2)(b) of the Act; and

(j) pursuant to subsection 37(1) of the Act, Grinshpun is prohibited permanently from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities.

DATED at Toronto this 29th day of November, 2011.

"Edward P. Kerwin"

2.2.3 Zungui Haixi 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
ZUNGUI HAIXI CORPORATION,
YANDA CAI AND FENGYI CAI

ORDER
(Section 127 of the Securities Act)

WHEREAS on November 7, 2011, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") and a related Statement of Allegations (the "Statement of Allegations") with respect to Zungui Haixi Corporation ("Zungui"), Yanda Cai and Fengyi Cai (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing stated that a hearing would be held at the Offices of the Commission on November 23, 2011 at 11:00 a.m.;

AND WHEREAS on November 23, 2011, Staff of the Commission ("Staff") attended before the Commission and no one appeared on behalf of the Respondents;

AND WHEREAS the Commission was satisfied that the Respondents were served with the Notice of Hearing and Statement of Allegations and had received reasonable notice of the hearing;

AND WHEREAS on November 23, 2011, Staff requested that a further appearance be scheduled for November 30, 2011;

AND WHEREAS on November 23, 2011, the Commission made an order, *inter alia*, adjourning the hearing to November 30, 2011;

AND WHEREAS on November 30, 2011, Staff attended before the Commission and no one appeared on behalf of the Respondents;

AND WHEREAS the Commission was satisfied that the Respondents were served with the Commission's Order dated November 23, 2011;

AND WHEREAS Staff advised the Commission that, in accordance with the Order of the Commission dated November 23, 2011, Staff would, prior to the end of the day, make available for inspection by the Respondents at the Offices of the Commission all of the documents or things in Staff's possession or control relevant to the allegations set out in the Statement of Allegations;

AND WHEREAS Staff advised the Commission that, in accordance with the Order of the Commission dated

November 23, 2011, Staff would, prior to the end of the day, make available for inspection by the Respondents at the Offices of the Commission all of the documents or things that Staff intends to produce or enter as evidence at the hearing on the merits;

AND WHEREAS Staff advised the Commission that it had canvassed previously proposed December 2011 hearing dates with potential witnesses and that certain witnesses were unavailable on those dates;

AND WHEREAS Staff requested that the hearing be scheduled for the next available dates;

AND WHEREAS Staff advised the Commission that they intend to bring a motion to request that the Commission conduct the hearing on the merits, in whole or in part, by means of a written hearing, including through the use of affidavit evidence (the "Motion");

AND WHEREAS Staff requested that the Motion be conducted by means of a written hearing;

IT IS ORDERED that the Motion will be conducted by means of a written hearing;

IT IS FURTHER ORDERED that, pursuant to its ongoing disclosure obligations, Staff shall make available for inspection by the Respondents at the Offices of the Commission as soon as is reasonably practicable all of the relevant documents or things that may come into Staff's possession or control;

IT IS FURTHER ORDERED that the hearing on the merits is to commence on February 2, 2012 at 10:00 a.m. at the Offices of the Commission, 20 Queen Street West, 17th Floor, Toronto, and shall continue on February 3, 2012 or such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary.

Dated at Toronto this 30th day of November, 2011.

"Christopher Portner"

2.2.4 Aerocast Inc. – s. 144

Headnote

Section 144 – full revocation of cease trade order upon remedying of defaults.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(the Act)

AND

IN THE MATTER OF
AEROCAST INC.
(the Reporting Issuer)

ORDER
(Section 144)

Background

On August 23, 2011, the Director made an order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

The Order was made because the Reporting Issuer was in default of certain filing requirements under Ontario securities law as described in the Cease Trade Order.

The Reporting Issuer has applied to the Ontario Securities Commission under section 144 of the Act for a revocation of the Cease Trade Order.

Representations

This order is based on the following facts represented by the Reporting Issuer:

1. The Reporting Issuer is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta and Ontario.

2. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law, including interim unaudited financial statements, interim management's discussion and analysis, and certification of interim filings for the interim period ended June 30, 2011.

3. The Reporting Issuer is not in default of the Cease Trade Order or any requirements under Ontario securities law.

4. The Reporting Issuer has paid all outstanding activity, participation and late filing fees that are required to be paid.

5. The Reporting Issuer's SEDAR profile and SEDI issuer profile supplement are current and accurate.

6. Upon the issuance of this revocation order, the Reporting Issuer will issue a news release announcing the revocation of the Cease Trade Order. The Reporting Issuer will concurrently file the news release and a material change report regarding the revocation of the Cease Trade Order on SEDAR.

7. The Reporting Issuer was also subject to a similar cease trade order issued by the British Columbia Securities Commission as a result of the failure to make the filings described in the Cease Trade Order. The order issued by the British Columbia Securities Commission was revoked on November 10, 2011. The Reporting Issuer is also subject to a cease trade order issued by the Alberta Securities Commission for failure to file interim unaudited financial statements, interim management's discussion and analysis, and certification of interim filings for the interim period ended June 30, 2011.

Order

The Director is of the opinion that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

It is ordered under section 144 of the Act that the Cease Trade Order is revoked.

Dated: December 1, 2011

"Jo-Anne Matear"
Manager, Corporate Finance Branch

2.2.5 Sextant Capital Management Inc. 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
SEXTANT CAPITAL MANAGEMENT INC.,
SEXTANT CAPITAL GP INC., OTTO SPORK,
KONSTANTINOS EKONOMIDIS,
ROBERT LEVACK AND NATALIE SPORK

ORDER
(Section 127)

WHEREAS following the release of the Reasons for Decision dated May 17, 2011 on the hearing on the merits, a sanctions hearing (the "Sanctions Hearing") was set down to be heard on September 22 and 23, 2011;

AND WHEREAS by order dated September 20, 2011, the Sanctions Hearing was adjourned on consent to December 7, 2011;

AND WHEREAS Groia & Company Professional Corporation ("Groia & Company"), the lawyers of record for the Respondents, Otto Spork, Natalie Spork and Konstantinos Ekonomidis (the "Respondents"), brought a motion seeking leave to be removed as lawyers of record for the Respondents;

AND WHEREAS on November 18, 2011, the Commission ordered that Groia & Company be removed as lawyers of record for the Respondents (upon filing with the Commission confirmation of service of the order on the Respondents);

AND WHEREAS on November 24, 2011, Rosen Naster LLP was appointed as lawyers of record for the Respondents;

AND WHEREAS counsel for the Respondents has requested an adjournment of the Sanctions Hearing, and Staff consents to this request;

AND WHEREAS the Commission considers it in the public interest to make this order;

IT IS ORDERED that the Sanctions Hearing scheduled for December 7, 2011 is adjourned, on consent, to April 18, 2012 at 10:00 a.m..

DATED at Toronto this 5th day of December, 2011.

"James Carnwath"

This page intentionally left blank

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Ameron Oil and Gas Ltd. et al.

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

AND

IN THE MATTER OF
AMERON OIL AND GAS LTD., MX-IV LTD.,
GAYE KNOWLES, GIORGIO KNOWLES,
ANTHONY HOWORTH, VADIM TSATSKIN,
MARK GRINSHPUN, ODED PASTERNAK,
AND ALLAN WALKER

SETTLEMENT AGREEMENT
BETWEEN STAFF AND MARK GRINSHPUN

PART I – INTRODUCTION

1. By Notice of Hearing dated December 13, 2010, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on December 20, 2010, pursuant to sections 37, 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 orders, as specified therein, against Ameron Oil and Gas Ltd. ("Ameron"), MX-IV LTD. ("MX-IV"), Gaye Knowles, Giorgio Knowles, Anthony Howorth ("Howorth"), Vadim Tsatskin ("Tsatskin"), Mark Grinshpun ("Grinshpun"), Oded Pasternak ("Pasternak") and Allan Walker ("Walker") (collectively the "Respondents"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated December 13, 2010. Staff filed an Amended Statement of Allegations dated October 5, 2011.

2. The Commission will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 37 and 127 of the Act, it is in the public interest for the Commission to approve this Settlement Agreement and to make certain orders in respect of Grinshpun.

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated December 13, 2010 against Grinshpun (the "Proceeding") in accordance with the terms and conditions set out below. Grinshpun consents to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III – AGREED FACTS

Global Energy Group, Ltd. and the New Gold Securities

4. From approximately June 2007 to June 2008, Global Energy Group, Ltd. ("Global Energy"), and employees and agents of Global Energy, distributed units in limited partnerships called New Gold Limited Partnerships (the "New Gold securities") to members of the public. The New Gold securities purported to entitle the purchaser to an interest in oil wells in the State of Kentucky in the United States of America.

5. Neither Global Energy nor any of the agents selling the New Gold securities was registered in any capacity with the Commission and the New Gold securities were not qualified by a prospectus.

6. The distribution of the New Gold securities to members of the public by Global Energy, its salespersons and agents, ended in and around June of 2008 following the execution of search warrants by Staff on offices related to Global Energy.

7. On June 8, 2010, the Commission issued a Notice of Hearing accompanied by Staff's Statement of Allegations in the matter of Global Energy, New Gold Limited Partnerships ("New Gold") and various individual respondents. The allegations included that Global Energy, as well as certain salespersons, representatives or agents of Global Energy, engaged in a course of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons purchasing the New Gold securities contrary to subsection 126.1(b) of the Act.

8. On April 1, 2011, the Commission laid an information in the Ontario Court of Justice in respect of Tsatskin and on April 4, 2011 Tsatskin pled guilty to one count of fraud contrary to subsections 126.1(b) and 122(c) of the Act. In his plea, Tsatskin admitted that the New Gold securities were fraudulently represented to constitute ownership interests in Kentucky oil and gas leases.

9. Grinsphun provided IT support to Global Energy and Tsatskin. He was not a named respondent in the Global Energy matter.

Background Regarding Ameron

10. In 2007, Tsatskin established an International Business Company (“IBC”) in the Bahamas under the name American Oil & Gas Resources Inc. (“American Oil”). American Oil had no operations and was eventually struck off the register as an IBC for non-payment of fees.

11. In 2009, Tsatskin had American Oil restored and renamed Ameron Oil and Gas Ltd.

12. From approximately June of 2009 up to and including April 8, 2010 (the “Material Time”), Tsatskin and Grinshpun were the directing minds and principal officers of Ameron.

13. During the Material Time, the directors of Ameron were Gaye Knowles, Giorgio Knowles and Howorth (the “Ameron Directors”). The Ameron Directors are residents of the Bahamas.

14. In its promotional materials and on its website, Ameron purported to be a company “formed for the purpose of finding, developing and producing America’s crude Oil and Natural Gas reserves.”

15. The primary business of Ameron was selling units of a series of limited partnerships (the “MX-IV securities”) to members of the public. The MX-IV securities purported to entitle the purchaser to an interest in four oil wells located in the State of Kentucky in the United States of America.

16. The sales of the MX-IV securities to members of the public by Ameron and its salespersons and agents took place from offices in the Toronto area (the “Ontario Offices”).

17. Members of the public were solicited to purchase full units of the MX-IV securities for $49,000. Ameron also offered the opportunity to purchase quarter-units and half-units of the MX-IV securities.

18. Neither Ameron nor MX-IV has ever filed a prospectus with the Commission with respect to the MX-IV securities. There were no exemptions under the Act that permitted the trading of these securities.

19. During the Material Time, Tsatskin and Grinshpun supervised and directed the sale of the MX-IV securities by Ameron, its salespersons and agents, from the Ontario Offices.

20. Approximately $615,500 was raised from the sale of the MX-IV securities to approximately 15 investors as a result of the activities of salespersons, representatives or agents of Ameron.

21. Ameron and MX-IV have never been registered with the Commission in any capacity.

Trading in MX-IV Securities by Ameron

22. Grinshpun is a resident of Ontario. During the Material Time, Grinshpun was a directing mind and de facto director and officer of Ameron.

23. During the Material Time, Ameron, its salespersons and agents sold MX-IV securities to members of the public from the Ontario Offices under the direction and supervision of Grinshpun.

24. Grinshpun provided Ameron salespersons and agents with a script (the “Ameron Script”) to assist them in their sales of the MX-IV securities to members of the public.

25. During the Material Time, Ameron salespersons and agents, under the direction and supervision of Grinshpun, provided information contained in the Ameron Script to potential investors in the MX-IV securities that was false, inaccurate and misleading, including, but not limited to, information with respect to:

- Ameron's operational history;
- the nature and extent of the assets owned by Ameron and/or MX-IV;
- the business and operations of Ameron and MX-IV; and
- the use of proceeds from the sale of the MX-IV securities.

26. Under the direction of Grinshpun, brochures containing false, inaccurate and misleading information about Ameron and the MX-IV securities were also forwarded to investors and potential investors in the MX-IV securities.

27. Ameron provided its salepersons with a sales commission of 19% for each sale of MX-IV securities made to a new investor and 17% for an additional sale made to an existing investor.

28. Grinshpun did not directly make any sales of the MX-IV securities; however, Grinshpun met with existing MX-IV investors in Kentucky on at least two occasions to discuss the investment in the MX-IV securities.

29. Grinshpun was not registered with the Commission in any capacity during the Material Time.

PART IV – CONDUCT CONTRARY TO THE PUBLIC INTEREST

30. By engaging in the conduct described above, Grinshpun admits and acknowledges that he contravened Ontario securities law during the Material Time in the following ways:

(a) During the Material Time, Grinshpun engaged or participated in acts, practices or courses of conduct relating to the MX-IV securities that Grinshpun knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(b) and contrary to the public interest;

(b) During the Material Time, Grinshpun traded in securities without being registered to trade in securities, contrary to subsection 25(1) of the Act, as that section existed at the time the conduct commenced and as subsequently amended on September 28, 2009, and contrary to the public interest; and

(c) During the Material Time, Grinshpun traded in MX-IV securities when a preliminary prospectus and a prospectus in respect of such securities had not been filed and receipts had not been issued for them by the Director, contrary to subsection 53(1) of the Act and contrary to the public interest.

31. Grinshpun admits and acknowledges that he acted contrary to the public interest by contravening Ontario securities law as set out in sub-paragraphs 30 (a) to (c) above.

PART V – TERMS OF SETTLEMENT

32. Grinshpun agrees to the terms of settlement listed below.

The Commission will make an order, pursuant to section 37 and subsection 127(1) of the Act, that:

(a) the Settlement Agreement is approved;

(b) trading in any securities by Grinshpun cease permanently from the date of the approval of the Settlement Agreement;

(c) the acquisition of any securities by Grinshpun is prohibited permanently from the date of the approval of the Settlement Agreement;

(d) any exemptions contained in Ontario securities law do not apply to Grinshpun permanently from the date of the approval of the Settlement Agreement;

(e) Grinshpun is reprimanded;

(f) Grinshpun is prohibited permanently from the date of the approval of the Settlement Agreement from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

(g) Grinshpun is prohibited permanently from the date of the approval of the Settlement Agreement from becoming or acting as a registrant, as an investment fund manager or as a promoter; and,

(h) Grinshpun shall disgorge to the Commission the amount of $615,500 obtained as a result of his non-compliance with Ontario securities law. The amount of $615,500 disgorged shall be for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing MX-IV securities, in accordance with subsection 3.4(2)(b) of the Act;

(i) Grinshpun shall pay an administrative penalty in the amount of $250,000 for his failure to comply with Ontario securities law. The administrative penalty in the amount of $250,000 shall be for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing MX-IV securities, in accordance with subsection 3.4(2)(b) of the Act; and

(j) Grinshpun is prohibited permanently, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities.

33. Grinshpun undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in sub-paragraphs 32 (b) to (g) and (j) above.

PART VI – STAFF COMMITMENT

34. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Grinshpun in relation to the facts set out in Part III herein, subject to the provisions of paragraph 35 below.

35. If this Settlement Agreement is approved by the Commission, and at any subsequent time Grinshpun fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Grinshpun based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

36. Approval of this Settlement Agreement will be sought at a hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by Staff and Grinshpun for the scheduling of the hearing to consider the Settlement Agreement.

37. Staff and Grinshpun agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding Grinshpun's conduct in this matter, unless the parties agree that further facts should be submitted at the settlement hearing.

38. If this Settlement Agreement is approved by the Commission, Grinshpun agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

39. If this Settlement Agreement is approved by the Commission, neither party will make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

40. Whether or not this Settlement Agreement is approved by the Commission, Grinshpun agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

41. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" is not made by the Commission:

(a) this Settlement Agreement and its terms, including all settlement negotiations between Staff and Grinshpun leading up to its presentation at the settlement hearing, shall be without prejudice to Staff and Grinshpun; and

(b) Staff and Grinshpun shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Amended Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

42. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of Grinshpun and Staff or as may be required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

43. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.

44. A facsimile copy of any signature will be as effective as an original signature.

Dated this 19th day of October, 2011.

Signed in the presence of:

"Jan Gerchikov"
Witness:

"Mark Grinshpun"
Mark Grinshpun

Dated this 19th day of October, 2011.

"Tom Atkinson"
STAFF OF THE ONTARIO SECURITIES COMMISSION
per Tom Atkinson
Director, Enforcement Branch

Dated this 25th day of November, 2011.

SCHEDULE "A"

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

AND

IN THE MATTER OF
AMERON OIL AND GAS LTD., MX-IV LTD.,
GAYE KNOWLES, GIORGIO KNOWLES,
ANTHONY HOWORTH, VADIM TSATSKIN,
MARK GRINSHPUN, ODED PASTERNAK,
AND ALLAN WALKER

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
MARK GRINSHPUN

ORDER
(Sections 37 and 127(1))

WHEREAS by Notice of Hearing dated December 13, 2010, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on December 20, 2010, pursuant to sections 37, 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 orders, as specified therein, against Ameron Oil and Gas Ltd., MX-IV LTD. ("MX-IV"), Gaye Knowles, Giorgio Knowles, Anthony Howorth, Vadim Tsatskin, Mark Grinshpun ("Grinshpun"), Oded Pasternak and Allan Walker. The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff") dated December 13, 2010;

AND WHEREAS Staff filed an Amended Statement of Allegations dated October 5, 2011;

AND WHEREAS Grinshpun entered into a settlement agreement with Staff dated October_____, 2011 (the "Settlement Agreement") in which Grinshpun agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated December 13, 2010, subject to the approval of the Commission;

WHEREAS on October_____, 2011, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notices of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from counsel for Grinshpun and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Grinshpun cease permanently;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Grinshpun is prohibited permanently;

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

(e) pursuant to clause 6 of subsection 127(1) of the Act, Grinshpun is reprimanded;

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

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

(h) pursuant to clause 9 of subsection 127(1) of the Act, Grinshpun shall pay an administrative penalty in the amount of $250,000 for his failure to comply with Ontario securities law. The administrative penalty in the amount of $250,000 shall be for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing securities of MX-IV, in accordance with subsection 3.4(2)(b) of the Act;

(i) pursuant to clause 10 of subsection 127(1) of the Act, Grinshpun shall disgorge to the Commission the amount of $$615,500 obtained as a result of his non-compliance with Ontario securities law. The amount of $615,500 disgorged shall be for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing securities of MX-IV, in accordance with subsection 3.4(2)(b) of the Act; and

(j) pursuant to subsection 37(1) of the Act, Grinshpun is prohibited permanently from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities.

DATED at Toronto this _____ day of _____, 2011.

3.1.2 MRS Sciences Inc. (formerly Morningside Capital Corp.) et al.

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

AND

IN THE MATTER OF
MRS SCIENCES INC.
(FORMERLY MORNINGSIDE CAPITAL CORP.),
AMERICO DEROSA, RONALD SHERMAN,
EDWARD EMMONS, IVAN CAVRIC AND
PRIMEQUEST CAPITAL CORPORATION

REASONS AND DECISION ON A MOTION

Hearing:	November 2, 2011		
Decision:	December 6, 2011		
Panel:	Mary G. Condon	–	Vice-Chair and Chair of the Panel
	Christopher Portner	–	Commissioner
Appearances:	Peter-Paul E. DuVernet	–	For MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo Derosa, Ronald Sherman, Edward Emmons and Ivan Cavric
	Scott C. Hutchison Derek J. Ferris	–	For Staff of the Commission

TABLE OF CONTENTS

REASONS AND DECISION ON A MOTION

I. INTRODUCTION

[1] The Respondents MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo Derosa, Ronald Sherman, Edward Emmons and Ivan Cavric (collectively, the "**Respondents**") brought a motion before the Ontario Securities Commission (the "**Commission**") requesting directions and challenging the jurisdiction of a Panel of Commissioners, neither of whom were on the Panel that made the decision on the merits, to hear and decide the issues of sanctions and costs in this matter.

[2] The central issue in this motion is whether the Secretary to the Commission (the "**Secretary**") is legally entitled to assign a Panel to hear submissions and decide on sanctions in this matter that is composed of Commissioners who are different from those who heard the merits.

[3] Counsel for the Respondents and for Staff of the Commission ("**Staff**") made oral submissions at the motion hearing on November 2, 2011. Prior to the motion hearing, we were provided with written submissions by the Respondents and Staff.

[4] We find that it is within the jurisdiction of the Commission for the Secretary to appoint a Panel of Commissioners who did not participate in the hearing on the merits to preside over the sanctions and costs hearing. These are the reasons for our decision.

A. Background Facts

[5] This proceeding was commenced by a Notice of Hearing issued by the Secretary on November 30, 2007 following Staff's filing of a Statement of Allegations dated November 29, 2007.

[6] On April 14, 2009, Staff filed an Amended Amended Statement of Allegations, and an Amended Notice of Hearing was issued by the Secretary on April 15, 2009.

[7] The merits hearing in this matter was held on 12 days from May 7, 2009 through October 7, 2009 before a Panel consisting of Commissioner LeSage and Commissioner Perry (the "**MRS Merits Panel**"). The Respondents were represented throughout the hearing and three of the individual respondents testified as witnesses at the merits hearing.

[8] The MRS Merits Panel's written Reasons and Decision were issued on February 2, 2011 (*Re MRS Sciences Inc.* (2011), 34 O.S.C.B. 1547) (the "**MRS Merits Decision**"). In the MRS Merits Decision, the MRS Merits Panel made findings against the Respondents of breaches of Ontario securities law and conduct contrary to the public interest. Certain of the allegations against the Respondents were held by the MRS Merits Panel not to have been made out. No findings were made against a sixth respondent, Primequest Capital Corporation, against which Staff had also brought allegations. The MRS Merits Decision instructed the parties that "Staff and the Respondents shall contact the Office of the Secretary to the Commission within ten days to schedule a sanctions and costs hearing" (MRS Merits Decision, *supra* at para. 239).

[9] In accordance with Orders in Council signed by the Lieutenant Governor of Ontario, the terms of office of Commissioners LeSage and Perry as Commissioners of the Ontario Securities Commission expired on February 10, 2011 and February 14, 2011, respectively.

[10] In an email sent to counsel for Staff and counsel for the Respondents on May 5, 2011, the Secretary informed the parties that:

> … the terms of appointment of Commissioners LeSage and Perry have expired. As a result, and consistent with our past practice, the tribunal will not schedule either Commissioner to preside over the sanctions hearing. In the event that any party wishes to challenge the jurisdiction of the panel struck to preside over the sanctions hearing, we would expect such party to file a motion for recusal of the panel complete with legal argument and authority. The jurisdictional challenge motion would be heard by the panel set to preside on the sanctions hearing and would be disposed of by that panel before any sanctions hearing could proceed.

II. THE ISSUES

[11] The Respondents argue that a new Panel that is composed of Commissioners who were not on the MRS Merits Panel does not have jurisdiction to make a determination on sanctions and costs in this matter. The Respondents submit that the MRS Merits Panel members who heard the evidence and made the MRS Merits Decision should continue with the hearing to deal with sanctions.

[12] Addressing this issue involves two main questions:

(i) Does the Secretary have the authority to assign a Panel of Commissioners, none of whom were on the MRS Merits Panel, to hear and make a determination on the issues of sanctions and costs?

(ii) Would proceeding with a sanctions and costs hearing before a new Panel of Commissioners result in procedural unfairness to the Respondents?

III. ANALYSIS

A. Preliminary Matters

[13] As a preliminary matter, the Respondents submit that the burden lies with Staff to demonstrate that there is jurisdiction in the tribunal for Commissioners other than those who made the MRS Merits Decision to make a decision with respect to sanctions and costs. They submit that the burden is on Staff to demonstrate some authority for the conclusion that a sanctions hearing resulting from a Notice of Hearing is discrete from the hearing on the merits.

[14] Staff, on the other hand, submits that the exercise of authority by the Secretary is presumptively proper, and the Respondents bear the burden of displacing that presumption. They submit that the onus is on the Respondents to satisfy us that the decision by the Secretary to constitute the sanctions Panel as he has is somehow beyond the jurisdiction of the Commission.

[15] Although neither party provided authority for their respective positions on where the burden of proof lies on this motion, we are satisfied that the Secretary, on behalf of the Commission, has the authority to determine the composition of the Panel for the hearing on sanctions and costs.

B. Jurisdiction

1. Respondents' Position

[16] The Respondents submit that "there is no authority or jurisdiction for an entirely new Panel, that has heard none of the evidence, to continue the hearing or deal with sanctions". The basis for this argument is that the merits hearing and the sanctions hearing are properly understood as a single hearing; one is simply the continuation of the other and the merits hearing is a necessary precondition for the sanctions hearing.

[17] The Respondents assert two related grounds on which an entirely new Panel would not have jurisdiction to conduct the hearing as to sanctions: (i) they cite the principle that "they who hear must decide", and (ii) they claim there will be a loss of quorum if there is a new Panel.

[18] The Respondents submit that the principle of audi alteram partem, which includes the maxim "they who hear must decide", requires that only those Panel members who have heard the evidence can participate in the decision, and that new Panel members have no jurisdiction to hear the sanctions issues. In support of this principle, the Respondents refer to section 4.3 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "**SPPA**"), which they argue contemplates the position they are advocating. Section 4.3 provides that:

> If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose.

[19] The Respondents submit that they wanted the MRS Merits Panel members who heard the evidence on the merits to continue with the hearing and deal with sanctions, and accordingly inquired as to whether both or either one of the MRS Merits Panel members would complete the hearing.

[20] In support of their request, the Respondents referred us to a number of cases that consider the principle of *audi alteram partem*. The Respondents submit that the principle of *audi alteram partem* goes to the tribunal's jurisdiction and refer to *Doyle v. Restrictive Trade Practices Commission*, [1985] 1 F.C. 362 (F.C.A.) ("***Doyle***"), in which the Federal Court of Appeal discusses the maxim of *audi alteram partem* at para. 13:

> This maxim expresses a well-known rule according to which, where a tribunal is responsible for hearing and deciding a case, only those members of the tribunal who heard the case may take part in the decision. It has sometimes been said that this rule is a corollary of the audi alteram partem rule. ... This is true to the extent a litigant is not truly "heard" unless he is heard by the person who will be deciding his case. In my view, however, the rule expresses more than that; it is a rule which actually affects the judge's jurisdiction. For that reason its violation may be invoked even by a litigant who waived his right to be heard by the court which passed judgment on him. Thus, a defendant who voluntarily declines to attend the hearing thereby waives the right to be heard; he does not, however, waive the right to be judged by a judge who has heard the evidence. ...

[21] In addition, in *Davis v. Toronto (City)*, [2008] O.H.R.T.D. No. 14 ("***Davis***"), the Ontario Human Rights Tribunal applied the principle of *audi alteram partem* in the context of continuation of a quorum. Davis describes *audi alteram partem* as a well-settled principle that "requires that the individual (or panel) who hears the evidence must be the individual to decide on the

outcome" (*Davis*, *supra* at para. 34). The Respondents submit that for this principle to be upheld, the MRS Merits Panel must be the Panel to make a decision with respect to sanctions. Further, they submit that this is a case where issues of credibility have been raised, and, as stated in *Davis*:

> Under the paradigm situation of an oral hearing having serious consequences for individual rights or interests in which issues of credibility are raised, this means that the member or members of the tribunal should not only sit at the hearing but also be present and attentive throughout and thereafter reach their own independent decision on the basis of the evidence adduced and arguments presented by the parties.
>
> (*Davis*, *supra* at para. 36 quoting David J. Mullan, *Administrative Law* (Toronto: Irwin Law, 2001), at 293)

[22] The Respondents also directed us to the decision in *Piller v. Association of Ontario Land Surveyors* (2002), CanLII 44996 (Ont. C.A.) ("***Piller***"), in which the Ontario Court of Appeal considered the question of whether a member whose term had expired was entitled to continue to participate in a matter before a disciplinary panel. The member in question had presided over preliminary matters "akin to preliminary motions brought at the outset of trial and heard by the presiding judge" (*Piller*, *supra* at para. 35). Subsequent to hearing the preliminary matters, the member's term expired. The court found that:

> Understood in the context of an administrative hearing where the sole purpose for which the panel is convened is to deal with matters relevant to the disciplinary matter before it and there is no other forum for preliminary matters to be considered, in my view, the hearing of preliminary motions resulted in the commencement of proceedings.
>
> (*Piller*, *supra* at para. 37)

[23] The court determined that by presiding over the preliminary matters, the member participated in the hearing and, by virtue of section 4.3 of the SPPA, the member's term was deemed to continue for the purpose of completing the hearing and rendering a decision (*Piller*, *supra* at para. 53). The Respondents submit that, similarly, the MRS Merits Panel members have jurisdiction to continue to the completion of this hearing.

[24] The Respondents also note that the Notice of Hearing contains language that contemplates that the merits and sanctions would be conducted as one hearing. The original Notice of Hearing in this matter states:

> **TAKE NOTICE** that the Commission will hold a hearing pursuant to section 127 of the *Securities Act*, at its offices at 20 Queen Street West, 17th Floor Hearing Room on Friday, the 21st day of December, 2007 at 10:00 a.m. or as soon thereafter as the hearing can be held:
>
> **TO CONSIDER** whether, pursuant to section 127 and section 127.1 of the *Securities Act*, it is in the public interest for the Commission:
>
> (i) at the conclusion of the hearing, to make an order pursuant to paragraph 2 of subsection 127(1) that trading in the securities of MRS Sciences cease until further order of this Commission;
>
> (ii) at the conclusion of the hearing, to make an order against any or all of the Respondents that:
>
> … [emphasis in original]

[25] The Respondents submit that there is one Notice of Hearing, for one continuous hearing to deal with the merits and sanctions, although it is conducted in two parts. They submit that, based on the language of the Notice of Hearing, the Commission will consider whether "at the conclusion of the hearing, to make an order", the Notice of Hearing contemplates one continuous hearing, at the end of which there is an order.

[26] According to the Respondents, the merits and sanctions parts of the hearing are temporally separate, but procedurally continuous and connected. Procedurally, they submit, the hearing is bifurcated in accordance with the *Ontario Securities Commission Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "**OSC Rules**"), but they are two parts of the same hearing. The Respondents submit that this temporal separation does not create a discrete proceeding.

[27] The Respondents further submit that if the sanctions portion is a continuation of the hearing on the merits, and not an entirely discrete hearing, a new Panel would result in the loss of a quorum. They refer to the statement by Sara Blake in *Administrative Law in Canada*, 4th ed. (Markham: LexisNexis Canada Inc., 2006) at 84, cited in *Davis*, *supra* at para. 29:

> Where a quorum is prescribed by statute or regulation, a hearing by fewer than that number is invalid and a decision is void. If one member is lost, leaving no quorum, the remaining members may not continue the hearing. They cannot continue even if the absent member is replaced, because the replacement has not heard the evidence presented before joining the panel. … Lack of a prescribed quorum cannot be waived by parties because the purpose of the quorum is to serve the public interest through the collective wisdom of a minimum number of members.

[28] The Respondents submit that the quorum that began the merits hearing has been lost, and although a new Panel may be constituted, it is not the Panel that has heard the evidence and therefore the principle of *audi alteram partem* is violated.

2. Staff's Position

[29] Staff submits that the sanctions Panel has been properly constituted in a manner consistent with the Act, the procedures of the Commission, the past practices of the Commission, and consistent with the rules of natural justice as applied by this and other adjudicative bodies.

[30] Staff relies on the definitions of "hearing" and "proceeding" in the SPPA and argues that these terms, which are defined differently, must be taken to mean different things. Staff submits that a "proceeding" is the overall case or matter in respect of which the tribunal is to exercise its ultimate statutory authority, while a "hearing" is an individual step or stage within such a proceeding. Subsection 1(1) of the SPPA defines them as:

> "hearing" means a hearing in any proceeding; ("audience")
>
> …
>
> "proceeding" means a proceeding to which this Act applies; ("instance")

[31] Staff submits that the legislature has been clear in assigning distinct meanings to the words "hearing" and "proceeding". Staff takes the position that a sanctions and costs hearing convened following a merits decision is a discrete "hearing" within a "proceeding" that is commenced by the initial Notice of Hearing. As such, the Secretary must constitute a Panel of current Commission members.

[32] Staff submits that section 4.3 of the SPPA when it refers to "participated in a hearing" only provides jurisdiction for Commissioners to continue their work with respect to hearings for which decisions have not been issued, and not the entirety of proceedings which have not been completed by the time Commissioners' terms of office have expired.

[33] Staff notes that in *Piller*, the Court of Appeal referred to both section 4.3 of the SPPA and subsection 26(11) of the *Surveyors Act*, R.S.O. 1990, c. S.29. Section 26(11) of the *Surveyors Act* provides that:

> Where a proceeding is commenced before the Discipline Committee and the term of office in the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee *for the purpose of completing the disposition of the proceeding* in the same manner as if the term of office had not expired or been terminated. [emphasis added]
>
> (See *Piller*, *supra* at para. 30)

[34] Staff points out that the *Surveyors Act* and the SPPA are statutes written by the same legislative body, so it can be assumed that the words have the same meaning in both. Staff submits that when the legislature's intention is to have an extension of a term of office beyond finishing the stage the member was involved in, it expresses itself in one way. By way of contrast, Staff submits that when the legislature intends to only authorize an extension to complete one stage, the hearing, it uses different language – the language of section 4.3 of the SPPA. Staff asserts that the language of section 4.3 of the SPPA, "a member of a tribunal who has participated in a hearing expires before a decision is given" is the only language that applies to the Commission.

[35] Staff further submits that the Commission consistently refers to the merits hearing and the sanctions hearing as being two separate hearings.

[36] Staff referred us to Rule 17.3 of the OSC Rules and submits that it is clear that there shall be a hearing to deal with sanctions and costs that is separate from the hearing on the merits. Rule 17.3 states:

> **17.3 Sanctions Hearing** – (1) Unless the parties to a proceeding agree to the contrary, a separate hearing shall be held to determine the matter of sanctions and costs.
>
> …

[37] Staff also referred us to a number of Commission decisions which refer to the sanctions hearing as having followed the decision on the hearing on the merits.

[38] Staff further submits that the present Panel has been properly constituted to conduct the sanctions hearing through an assignment in the normal course by the Secretary, who was exercising authority delegated to him by the Commission. Staff submits that the Secretary's authority to constitute Panels comes from the Commission's inherent powers as "master of its own house". The Commission has delegated its power to determine when and how a hearing is convened and who among its members will be on the Panel that presides at a hearing. Staff refers to the Commission's *Guidelines for Members and Employees Engaging in Adjudication*, adopted April 1, 2008 and available on the Commission's website (the "***Guidelines***"), which documents this delegation of authority in Article 6.1:

> **Article 6: Secretary, Independent Adjudicative Personnel and Adjudicative Committee**
>
> **6.1 Role of the Secretary**
>
> (1) **Assignment of Panel Members** – The Commission has delegated to the Secretary the authority to manage and administer the assignment of Panel Chairs and other Panel Members subject to the review and direction of the Adjudicative Committee. …

[39] Further, Staff submits that it is clear that the process by which this Panel was appointed has been approved by the Commission's Adjudicative Committee and embraced by the *Guidelines*. In support of this, Staff refers to the recent decision in *Xanthoudakis v. Ontario Securities Commission*, 2011 ONSC 4685 (Div. Ct.), where the Divisional Court states at paras. 49 to 50:

> Similarly, the mandate and make-up of the "Adjudicative Committee" of the OSC encourages the separation of the Chair of the OSC from the adjudicative role. The committee was established by resolution of the OSC on May 14, 2002. Its mandate is to review and evaluate the adjudicative procedures and practices of the OSC. As such, it oversees the decision-making function (see: [*Guidelines*], Article 6.3). In this capacity, it makes recommendations to the OSC and the chair of the OSC, but has no independent decision-making authority …
>
> This separation is confirmed by the [*Guidelines*]. … Among other things, it prescribes who has responsibility for selecting the members of panels to hear the various matters the OSC is called upon to adjudicate. Generally, it is the secretary of the OSC, subject to the review and direction of the Adjudicative Committee, who makes the assignment although the OSC may issue directives to the secretary in this regard. The "Guidelines" make it clear that, while the secretary may, in his or her discretion, consult with other members, *no one including the chair of the OSC* shall attempt to influence or participate in the selection of a panel (see: [Guidelines], Article 6.1(1) and (3)). [emphasis in original]

[40] The implication of Staff's submissions is that Commissioners whose terms of office as Commissioners expire may complete a hearing, but not a proceeding. Staff argues that the past practice of the Commission supports this contention and cites a number of cases to this effect. In cases where the term of appointment of one Commissioner expired, the other Commissioner(s) who participated in the decision on the merits sat on the sanctions Panel with a different Commissioner (see *Re Al-Tar Energy Corp.* (2011), 34 O.S.C.B. 447, *Re Biovail Corporation* (2011), 34 O.S.C.B. 5452, *Re Goldbridge Financial Inc.* (2011) 34 O.S.C.B. 11113, *Re White* (2010), 33 O.S.C.B. 8893, *Re Rowan* (2009), 33 O.S.C.B. 91 and *Re Xi Biofuels Inc.* (2010), 33 O.S.C.B. 10917).

3. Analysis of the Jurisdiction Arguments

i. *Audi alteram partem*

[41] We accept the argument of Staff that, as a matter of statutory interpretation, the SPPA contemplates that a "proceeding" and a "hearing" are different. The statement by the Court of Appeal in *Piller*, *supra* at para. 46 that the "proceedings were conducted by way of hearing" is indicative of this distinction between the concepts of "proceeding" and "hearing".

[42] In *Davis*, the Ontario Human Rights Tribunal notes that the principle of *audi alteram partem* is fundamental, but is not inflexible and is dependent on the "overall context":

> Although the principle is fundamental, it is not inflexible. In application, the principle has been adapted to accommodate the variety of forms of decision-making across different administrative tribunals and agencies (see David J. Mullan, *Administrative Law* (Toronto, Irwin Law, 2001), pages 295-6). Whether a departure from the principle in a given case meets with the requirements of procedural fairness depends on the overall context …
>
> (*Davis*, *supra* at para. 35)

[43] We make our findings on this motion in the context of practice in Commission proceedings, where the merits and sanctions portions of the proceeding are regularly heard separately, often months apart.

[44] We do not agree that it is necessary for the Panel that hears evidence and submissions as to the merits of whether the allegations of Staff have been made out to also hear separate submissions as to the appropriate sanctions to be applied. We agree with Staff that separate and distinct issues arise with respect to the appropriate sanctions to be applied. In our view, as long as both parties are provided with the opportunity to lead evidence and make submissions at the sanctions hearing, the requirement of the maxim of *audi alteram partem* will be satisfied. A corollary to this is that a sanctions Panel should not reopen issues that have been disposed of by the merits Panel that heard the relevant evidence as to the merits of Staff's allegations.

[45] The core of the principle of *audi alteram partem* is that litigants have a right to be heard by the decision-maker. The principle of *audi alteram partem* was satisfied in connection with the merits hearing here as the MRS Merits Panel heard the evidence of the Respondents and others and issued its Reasons and Decision on the basis of that evidence. The principle of *audi alteram partem* will be satisfied in connection with the sanctions hearing as the evidence of the Respondents and others will be heard by the Panel adjudicating the matter on the basis of that evidence. The sanctions and costs Panel will not be adjudicating on the merits of Staff's allegations, and, accordingly, does not need to have heard that evidence. The MRS Merits Panel adjudicated on breaches of the Act or conduct contrary to the public interest; the sanctions Panel will adjudicate on the appropriate sanctions *for those breaches or conduct* and the Respondents will be heard by the sanctions Panel on those issues.

[46] With respect to the language used in the Notice of Hearing which refers to orders being sought by Staff "at the conclusion of the hearing", we note that Staff acknowledges an inconsistency of language. We accept the submissions of Staff that, notwithstanding the use of the term "hearing", the Notice of Hearing initiates a proceeding before the Commission.

[47] We also note that although the Notice of Hearing issued in this matter indicates the general type of sanctions that will be sought at the sanctions hearing, it does not indicate the specific amount of an administrative penalty that will be sought by Staff. This will presumably be addressed in submissions at the sanctions and costs hearing.

[48] Merits hearings before the Commission can be lengthy and it is not uncommon for a Commissioner's term to expire during the hearing or deliberation period. The Act sets fixed term limits for Commissioners. Subsection 3(4) of the Act states:

> **3. (4) Appointment** – The members shall be appointed by the Lieutenant Governor in Council for such term of office not exceeding five years as the Lieutenant Governor in Council determines. A member may be reappointed.

[49] In addition, the Act imposes a maximum number of Commissioners in subsection 3(2):

> **3. (2) Composition** – The Commission is composed of at least nine and not more than 15 members.

[50] In a context in which merits hearings can take a considerable amount of time to hear and deliberate on, because of the volume of evidence, allegations against a multitude of respondents or procedural motions, it would in many cases be difficult and would impose an inappropriate constraint on the choice of members, to schedule merits hearings if only those Commissioners available to continue sitting from the commencement of the hearing on the merits to the conclusion of the hearing on sanctions would be eligible.

[51] The SPPA is clear in section 4.3 that the term of a member "who has participated in a hearing" and whose term expires before the decision is issued will be deemed to continue "only for the purpose of participating in the decision and for no other purpose". If the current group of Commissioners were to include, as the Respondents submit, those whose terms expired before the release of merits decisions and who then proceeded to sit on the sanctions and costs hearings, over time the number of former Commissioners who would still participate in Panel deliberations could undermine the intention of the Act to maintain a limited number of Commissioners appointed for fixed periods of time.

[52] The context of Commission proceedings can be distinguished from the situation in *Piller* where a member, having participated in preliminary motion-like matters, was found to have commenced a hearing. In this case, the MRS Merits Panel heard the evidence in the hearing on the merits and issued its decision.

[53] Further support for Staff's position is found in the Divisional Court's decision in *Banks v. Ontario (Securities Commission)*, [2005] O.J. No. 5076 ("***Banks***"), where a respondent to a Commission proceeding successfully appealed the Commission's decision on sanctions. The court upheld the Commission's decision as to the merits, but referred the matter back to the Commission for a new hearing on sanctions. In doing so, the court concluded:

> With respect to the issue of the sanctions the Commission imposed, it is common ground that the matter should be remitted back to the Commission to allow the parties to make submissions. The only issue is whether the matter should be remitted to a new panel. We leave that decision to the Commission.
>
> (*Banks*, *supra* at para. 23)

[54] The Divisional Court's decision in *Banks* accepts that the composition of a Panel is within the discretion of the Commission. It also supports the proposition that the same Panel is not required for both the hearing on the merits and the hearing on sanctions and costs.

[55] In this motion hearing, counsel for the Respondents took the position that if no respondents appeared at a hearing on the merits, there could be more flexibility with respect to the composition of the Panel because the *audi alteram partem* principle would not apply. However, jurisdiction to appoint a Panel in a particular manner cannot depend on whether or not respondents appear, and this position would in any event be inconsistent with the principle expressed in *Doyle*, above.

ii. Quorum

[56] The Respondents submit that the assignment of a new Panel for the sanctions hearing would result in a loss of quorum.

[57] Subsection 3(11) of the Act specifies that "Two members of the Commission constitute a quorum".

[58] As of May 12, 2011, subsection 3.5(3) of the Act was revised to provide that:

> Despite subsection 3 (11) and subject to subsection (4), any two or more members of the Commission may in writing authorize one member of the Commission to exercise any of the powers and perform any of the duties of the Commission, including the power to conduct contested hearings on the merits, and a decision of the member shall have the same force and effect as if made by the Commission.

[59] Our conclusion on the issue of quorum flows from our finding that the hearing on sanctions and costs is a separate "hearing" from the hearing on the merits, within the same "proceeding", as those terms are defined in the SPPA. If one Commissioner becomes unable to continue a hearing, resulting in a loss of quorum, issues will arise as to whether the remaining members properly constitute a Panel. That is not the situation in this case.

[60] The Respondents make reference to the decision in *Re Seed*, [1992] O.J. No. 392, where the Divisional Court found that there was a loss of quorum in a decision by the Public Accountants Council for the Province of Ontario. The judgment of the court, delivered orally, states in full:

> Apart from the natural justice issue and the diminution of the make up of the panel that presided at the earlier hearing we conclude that *the requirements of a quorum of eight provided for in s. 11 of the Act must relate not just to the commencement of the meeting but that quorum must continue through the penalty determination.* If it were not determined on that basis it would result in the anomaly that one person could make the determination on penalty.
>
> The penalty proceedings were therefore a nullity. As requested by the appellant the issue of penalty will be remitted to the Council to constitute a quorum to properly address the question of penalty. Either party may rely upon the transcript of evidence and either may adduce fresh evidence.
>
> No order as to costs. [emphasis added]

[61] While we do not have the benefit of the full history of the matter in *Re Seed*, it appears that it is distinguishable from the current situation. In this case, the quorum requirements under the Act will have to be met by the newly constituted Panel assigned to the hearing on sanctions and costs. The quorum must continue through the penalty determination of the sanctions hearing, as in *Re Seed*, but it is not necessary that those same Commissioners who constituted the MRS Merits Panel also be those Commissioners assigned to hear submissions and evidence at the sanctions and costs hearing. The requirement that quorum be maintained from the commencement of a hearing through to issuance of the decision in that hearing is a separate issue from the question of whether the Panel at a merits hearing should be constituted identically to the Panel for the hearing on sanctions and costs.

C. Procedural Fairness

1. Respondents' Position

[62] There are two aspects to the Respondents' general submissions on procedural fairness. First, the Respondents claim it is unfair that the Panel that rejected the more serious allegations against them will not continue and also hear evidence with respect to potential sanctions. They submit that any penalty must be tailored not only to the Respondents, but also to the "factual matrix" which is now lost.

[63] Second, the Respondents submit that there is an appearance of unfairness stemming from the treatment of these Respondents in a manner inconsistent with other cases before the Commission. The Respondents contend that Commissioner LeSage, although described as unavailable to sit on the sanctions Panel in this case, commenced a sanctions hearing in relation to another proceeding (the "**Sulja Bros. Proceeding**") after his term had expired. The sanctions and costs decision in *Re Sulja Bros. Building Supplies Ltd.* (2011), 34 O.S.C.B. 7515 ("**Sulja Bros. Sanctions**") notes at para. 4 that: "On June 2, 2011, following the issuance of the Sulja Nevada Merits Decision, the Panel invited Sulja Nevada, Kore Canada and DeVries to make submissions on sanctions and costs". The Respondents refer to this statement in Sulja Bros. Sanctions in support of their submission that Commissioner LeSage commenced the sanctions hearing in that matter after his term had expired on February 11, 2011.

[64] Although the Sulja Bros. Sanctions decision notes that the hearing with respect to sanctions and costs occurred on November 30, 2010, the reasons in the merits decision relating to some of the respondents in the Sulja Bros. Proceeding were not released until May 25, 2011. The Respondents submit that the sanctions and costs hearing in the Sulja Bros. Proceeding occurred after the merits decisions with respect to all the respondents were released, on June 2, 2011. In support of their position, the Respondents refer to subrule 17.3(2) of the OSC Rules, which states:

> *Following the issuance of the reasons for the decision on the merits*, the Secretary shall set a date for the sanctions hearing if such a hearing is necessary. [emphasis added]

[65] Similarly, they submit that it is unfair to the Respondents for a new Panel to hear the submissions on sanctions when Commissioner Perry, who was the second member of the MRS Merits Panel, was apparently available for a different sanctions hearing that is currently scheduled to begin later this year. The Respondents refer specifically to a letter sent by the Secretary on June 21, 2011 to the parties in another proceeding (the "**Sextant Proceeding**") against whom findings were made following a merits hearing (*Re Sextant Capital Management Inc.* (2011), 34 O.S.C.B. 5863) (the "**Sextant Letter**"). The Sextant Letter states:

> … Commissioner Carnwath advises me to inform you that it will not be necessary for you to prepare submissions on the proposed substitution of Commissioner Kelly for former Commissioner Perry.
>
> Ms. Perry has consented to continue to sit and hear submissions on sanctions pursuant to s. 4.3 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c.5.22 (the "Act").
>
> She is available on the proposed dates of July 11, 2011 … and July 13, 2011 …

[66] The Respondents submit that both the Sextant Letter and the procedure in the Sulja Bros. Proceeding create an appearance of unfairness with respect to the treatment of the Respondents in this matter.

2. Staff's Position

[67] Staff notes that at the start of the hearing on the merits in this matter, it was recognized that there would be a separate sanctions hearing, at which, Staff submits, evidence relevant to sanctions, but not germane to the merits, would be called. Staff submits that the issues relevant to a sanctions hearing are distinct from the kinds of issues that arise during a merits proceeding. Staff submits that by the time of the sanctions hearing, different issues are engaged, and discrete, factual questions may arise.

Although it is not unusual that evidence tendered at the merits hearing is also relevant, there is no relitigation of the issues that were conclusively resolved at the merits hearing.

[68] Staff submits that the sanctions hearing is a different and free-standing inquiry that is forward-looking, whereas the merits hearing is completely retrospective. Staff refers to an example from the criminal law context, from which Staff submits we can draw some parallels regarding the questions of fairness to the Respondents in the current situation. In *R. v. White*, [1997] A.J. No. 255 (Q.B.) ("***White***"), the accused, having been found guilty by a jury, absconded and was extradited to Canada ten years later. By the time he returned to Canada, the trial transcripts had been destroyed and the question the court was faced with was whether it had adequate evidence to fairly sentence the accused (*White*, *supra* at para. 33). The court found that:

> In order to answer this question, the court must first decide what constitutes adequate evidence of the trial proceedings. As Mr. White acknowledges, the Supreme Court of Canada has decided that it is not in every situation where there is a gap in a trial transcript that the court should order a new trial...
>
> By analogy with the reasoning in that case, I have concluded that the test to be used here is: Is there a serious possibility that the unavailability of a trial transcript deprives Mr. White of a sentencing process that will reflect the trial evidence?
>
> (*White*, *supra* at paras. 34-35)

Staff submits that we may import this analysis into the current context and ask whether there is any serious possibility that the fact that different Commissioners will deal with the question of sanctions and costs in this case in any way impairs the Respondents' right to properly address any of the issues that will arise on the sanctions hearing.

[69] In this case, Staff submits that the sanctions and costs Panel can rely on transcripts of the merits hearing, the MRS Merits Decision and on any additional evidence led at the sanctions hearing. Staff submits that the merits hearing addresses the allegations, while the sanctions hearing addresses the order or orders that the Commission should make.

[70] With respect to the alleged differential treatment of the Respondents in this matter as compared to respondents in other matters, Staff allows that the Sextant Letter is a matter of some concern with respect to the consistency of the Commission's practices. However, Staff submits that the language of the Sextant Letter, "Commissioner Carnwath advises me to inform you …" indicates that the situation did not involve the Secretary exercising his discretion to assign a sanctions Panel, but that the Secretary had been advised to take this step by direction from Commissioner Carnwath. Staff notes that the Sextant Letter takes an approach that is different from the approach Staff is advocating in this case. However, Staff submits that it appears to be Commissioner Carnwath's view, without having the benefit of submissions from any party, that the process outlined in the Sextant Letter can be sheltered under sections 4.3 and 4.4 of the SPPA. Staff further submits that if the issue arises in the context of a sanctions hearing in the Sextant Proceeding, Staff will take a consistent position on how it should be addressed and it will be up to the Panel in that matter to determine the issue if and when it arises.

[71] With regard to the Sulja Bros. Sanctions decision, Staff takes a different view of the facts from that of the Respondents. Staff submits that the sanctions hearing in the Sulja Bros. Proceeding commenced on November 30, 2010, before the expiry of Commissioner LeSage's term. Staff submits that an oral decision with respect to the respondents at issue was given following a hearing on September 29, 2010. Staff argues that the Commission held the sanctions hearing with respect to those and other respondents in the Sulja Bros. Proceeding on November 30, 2010 and that on June 2, 2011, the Panel invited written submissions on sanctions and costs from those respondents to whom the merits decision released on May 25, 2011 applied. It is Staff's position that the June 2, 2011 letter did not constitute the commencement of a sanctions and costs hearing.

3. Analysis of the Procedural Fairness Arguments

i. Panel hearing merits is different from Panel hearing sanctions

[72] We do not find any unfairness or perceived unfairness to the Respondents in holding the sanctions and costs hearing before a Panel constituted differently from the MRS Merits Panel. As we noted in our analysis with respect to the arguments on jurisdiction, it is not open to the sanctions and costs Panel to reconsider the merits decision because it is presiding over a separate hearing. The transcript of the merits hearing will be available to the sanctions and costs Panel and the Panel will have the benefit of the written reasons in the MRS Merits Decision.

[73] In dismissing an appeal of a conviction that was brought on the basis that the accused was entitled to be sentenced by the judge who presided at his trial, the Supreme Court in *R. v. Skalbania*, [1997] 3 S.C.R. 995 noted at para. 15:

> … Section 686(4)(b)(ii) [of the Criminal Code] provides that the case be remitted to the "trial court", not the "trial judge". … We note, without prejudice to any outstanding proceedings in relation to sentence, that transcripts of the trial were available and the hearing occupied three days.

[74] Although *R. v. Skalbania* was decided in the context of criminal legislation, the Court's observation that transcripts of the trial were available to the sentencing judge is noteworthy. While we acknowledge that specific saving clauses appear in the *Criminal Code* to facilitate a sentencing judge being different from the trial judge, the point of relevance to us is the latitude afforded to the sentencing judge concerning the materials that may be relied on for sentencing purposes.

[75] The sanctions and costs hearing in this matter will afford adequate opportunity to all parties to provide evidence relevant to sanctions and costs. In *Sussman Mortgage Funding Inc. v. Ontario (Superintendent of Financial Services)*, [2005] O.J. No. 4806 at para. 3, the Ontario Court of Appeal found that the panel making the determination as to penalty would base it on the earlier reasons of the tribunal, but could hear additional evidence relevant to penalty:

> The assessment of penalty will proceed before a differently constituted Tribunal. Penalty will be determined based on the findings made by the Tribunal in its reasons of August 8, 2002, in so far as those findings describe Sussman's conduct. *The Tribunal is at liberty to hear any evidence relevant to penalty, including evidence of events that arose after August 8, 2002.* [emphasis added]

[76] The exercise of determining appropriate sanctions is separate from the analysis of whether Staff's allegations on the merits are proven. Commission decisions on sanctions frequently make reference to a list of factors that may be considered by sanctions Panels, which are set out in *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 at 1135 and *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746:

(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) the need to deter a respondent, and other like-minded individuals from engaging in similar abuses of the capital markets in the future;

(f) whether the violations are isolated or recurrent;

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

(h) any mitigating factors, including the remorse of the respondent;

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

(j) the effect any sanction might have on the ability of a respondent to participate without check in the capital markets;

(k) the reputation and prestige of the respondent;

(l) the size of any other financial sanctions imposed or any voluntary payment made by the respondent; and

(m) the shame or financial pain that any sanction would reasonably cause to the respondent.

(See for example *Re Al-Tar Energy Corp.*, *supra* at para. 24; *Re Borealis International Inc.* (2011), 34 O.S.C.B. 5261 at para. 18, *Re Goldbridge Financial Inc.*, *supra* at para. 20 and *Re Rowan*, *supra* at para. 104)

[77] The sanctions Panel will be in a position to receive submissions with respect to all of these issues at the sanctions hearing. We note that some of the factors typically considered on sanctions can raise different credibility issues than would arise with respect to a hearing on the merits, including, for example, the shame or financial pain a sanction would cause to a respondent, or the remorse of a respondent.

[78] We accept Staff's contention that the assessment to be made at a sanctions hearing is forward-looking, rather than the retrospective process of determining whether misconduct has occurred, which is the task of the hearing on the merits.

[79] All this leads us to conclude that an appropriate level of procedural fairness can be provided by a newly constituted sanctions and costs Panel in this case.

ii. The treatment of respondents in this case and in other cases

[80] The most troubling of the Respondents' submissions is the suggestion of inconsistent treatment as compared to respondents in other proceedings. As indicated above, the Respondents cite two examples of such inconsistent treatment.

[81] We considered these examples closely and are ultimately satisfied that they do not support the claim by the Respondents in this case that they are being treated inconsistently and unfairly by the Secretary or the Commission.

[82] In the first case, Staff draws to our attention the fact that while the Sextant Letter is a letter from the Secretary concerning the sanctions Panel in the Sextant Proceeding, it is described as being provided on the advice of the Commissioner who acted as Chair of the merits Panel, without the benefit of submissions from the parties as to the appropriate way to proceed, and in the absence of any such sanctions hearing having been held to date. In other words, any departure from the tribunal's otherwise consistent practice has not yet occurred. Staff provided us with a chart of cases that demonstrates the Commission's consistent practice of assigning different Commissioners to sanctions hearings in the event that a Commissioner's term of office expired after participating in a merits hearing but before the sanctions hearing.

[83] With respect to the second example, we requested further submissions on this issue from Staff and the Respondents following the motion hearing. The timeline of the Sulja Bros. Proceeding is complicated by the fact that there were three groups of respondents in the same matter (two groups of non-contesting respondents and a third group of non-attending, contesting respondents [Sulja Bros. Building Supplies, Ltd., Kore International Management Inc. and Andrew DeVries]), with three separate merits decisions issued, two on October 28, 2010 with respect to the two groups of non-contesting respondents, and one on May 25, 2011 with respect to the non-appearing, contesting respondents. However, it is clear from the Sulja Bros. Sanctions decision itself and the transcript of that hearing that it began against *all* of the respondents in November 2010 during the period of Commissioner LeSage's appointment. At the conclusion of the oral hearing as to sanctions and costs, Commissioner LeSage stated:

> We'll reserve our decision on sanctions. We've heard a lot of information today and we'll take it under consideration and in due course, which I don't think will be too long, we will give our ruling on the sanctions. …
>
> (Transcript of the sanctions and costs hearing *In the matter of Sulja Bros. Building Supplies, Ltd. et al.*, November 30, 2010, p. 85)

[84] In their follow-up submissions to us on the Sulja Bros. Proceeding, the Respondents argued that Rule 17.3 of the OSC Rules ("**Rule 17.3**") would not have allowed the sanctions hearing with respect to the third group of respondents to commence until after May 25, 2011 when the written reasons on the merits with respect to them were issued. As noted above, Rule 17.3 sets out the rules with respect to sanctions hearings as follows:

> **17.3 Sanctions Hearing – (1)** Unless the parties to a proceeding agree to the contrary, a separate hearing shall be held to determine the matter of sanctions and costs.
>
> **(2)** Following the issuance of the reasons for the decision on the merits, the Secretary shall set a date for the sanctions hearing if such a hearing is necessary.
>
> …

[85] We disagree with the Respondents' interpretation of Rule 17.3 and its application to the Sulja Bros. Proceeding. The transcript of the November 10, 2010 hearing in the Sulja Bros. Proceeding clearly indicates that it was a sanctions and costs hearing with respect to all of the respondents, including the third group of non-appearing, contesting respondents.

[86] In the sanctions and costs hearing for the Sulja Bros. Proceeding, Staff counsel described the evidence that Staff would be relying on at the hearing on November 30, 2010 with respect to the various respondents as follows:

> One final point, for the purposes of our submissions on sanctions, and with respect to Mr. Vucicevich, Ms. Banumas, Mr. Shah, as well as both of the Sulja brothers, Sam Sulja and Steven Sulja, staff will be relying upon the findings of this Commission as set out in its decision on October 28th. *And for the purposes of the remaining respondents, being Mr. DeVries, as well as the two corporate respondents, we will be relying upon the evidence tendered by staff at the hearing all of which was uncontested.* [emphasis added]

> (Transcript of the sanctions and costs hearing *In the matter of Sulja Bros. Building Supplies, Ltd. et al.*, November 30, 2010, p. 9)

[87] The November 30, 2010 hearing was a sanctions and costs hearing that included the group of non-appearing, contesting respondents who did not appear at the merits hearing. It appears that the sanctions Panel relied on their oral ruling against these respondents issued on September 29, 2010. The merits decision with respect to the non-appearing, contesting respondents states:

> Our reasons and decisions with respect to the Non-Contesting Respondents were issued on October 28, 2010 …
>
> …. The hearing concluded on September 29, 2010, when we gave an oral ruling making summary findings against the Contested Proceeding Respondents with the understanding that more complete reasons would follow. These are those reasons.
>
> (*Re Sulja Bros. Building Supplies, Ltd.* (2011), 34 O.S.C.B 6356 at paras. 3-4)

[88] As subrule 17.3(2) does not require the reasons for decision to be in writing, the subsection must be read to permit the issuance of oral decisions. The sanctions and costs Panel in the Sulja Bros. Proceeding relied on the oral summary findings and the evidence submitted at the merits hearing for the sanctions and costs hearing. In our view, there can be no doubt that the sanctions and costs hearing against the non-attending, contesting respondents commenced in November 2010, during Commissioner LeSage's term of office.

[89] The circumstances of the Sulja Bros. Proceeding were unusual and have little, if any, bearing on our disposition of this matter, even if we agreed with the Respondents' submissions relating to the application of Rule 17.3 to the Sulja Bros. Proceeding. It should also be noted that the OSC Rules are rules made by the Commission pursuant to the SPPA. Panels can, and sometimes do, make orders or directions that have the effect of varying those rules within the context of proceedings, for instance to abbreviate time limits set out in the OSC Rules. Rule 1.4 states in part that:

> **(2)** A Panel may issue procedural directions or orders with respect to the application of the Rules in respect of any proceeding before it, and may impose any conditions in the direction or order as it considers appropriate.
>
> **(3)** A Panel may waive or vary any of the Rules in respect of any proceeding before it, if it is of the opinion that to do so would be in the public interest or that it would otherwise be advisable to secure the just and expeditious determination of the matters in issue.

[90] It was open to the Panel in the Sulja Bros. Proceeding to vary the procedure used in that matter. If in fact it did not follow the general procedure when setting sanctions and costs hearings, as set out in Rule 17.3, we do not find that this affects our assessment of the treatment of the Respondents in the present matter.

[91] The Respondents also cited to us sanctions decisions in which Commissioner LeSage was involved that were released after his term ended. We do not find these submissions persuasive. It is clear from the wording of section 4.3 of the SPPA that Commissioners whose terms have expired are permitted to continue for the purpose of making a determination with respect to a hearing in which they have participated.

IV. CONCLUSION

[92] We therefore dismiss the Respondents' motion and direct the parties to contact the Office of the Secretary within 10 days to schedule a hearing with respect to sanctions and costs.

Dated at Toronto this 6th day of December, 2011.

"Mary G. Condon"
Mary G. Condon

"Christopher Portner"
Christopher Portner

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
Acadian Energy Inc.	04 Aug 11	16 Aug 11	16 Aug 11	06 Dec 11
Aerocast Inc.	11 Aug 11	23 Aug 11	23 Aug 11	01 Dec 11
ARISE Technologies Corporation	23 Nov 11	05 Dec 11	05 Dec 11	
Revolution Technologies Inc.	05 Dec 11	16 Dec 11		
Rodocanachi Capital Inc.	05 Dec 11	16 Dec 11		
Innovative Wireline Solutions Inc.	07 Dec 11	19 Dec 11		

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.

This page intentionally left blank

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 SecuritiesSource (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
11/02/2011	1	1650702 Ontario Inc. - Loans	896,831.00	896,831.00
11/15/2011	17	2278419 Ontario Inc. - Common Shares	225,000.00	4,500,000.00
11/09/2011	17	2278419 Ontario Inc. - Common Shares	817,500.00	16,350,000.00
09/07/2011	6	BR Capital Limited Partnership - Limited Partnership Units	310,000.00	62.00
11/11/2011	2	Braeval Mining Corporation - Common Shares	110,000.00	220,000.00
11/10/2011	1	Broadview Energy Ltd. - Common Shares	1,000,000.00	500,000.00
11/08/2011	14	Caldera Resources Inc. - Units	168,000.00	2,800,000.00
11/16/2011	2	Canadian Continental Exploration Corp. - Common Shares	2,100,000.00	3,500,000.00
11/09/2011	15	Centre Hospitalier de l'Universite de Montreal - Debentures	148,505,940.00	148,505.90
11/15/2011	1	Cinemark Holdings, Inc. - Common Shares	411,856.40	20,000.00
10/31/2011 to 11/04/2011	8	Colwood City Centre Limited Partnership - Notes	625,000.00	625,000.00
10/31/2011	13	DEEP Earth Energy Production Corp. - Common Shares	284,000.00	1,420,000.00
11/08/2011	1	Dynavax Technologies Corporation - Common Shares	507,000.00	200,000.00
10/18/2011	20	EquiGenesis 2011 Preferred Investment LP - Limited Partnership Units	8,553,600.00	240.00
10/18/2011	8	EquiGenesis 2011 Preferred Investment LP - Units	2,316,600.00	240.00
11/10/2011	13	ESO Uranium Corp. - Flow-Through Units	300,000.00	3,000,000.00
11/04/2011	1	E. Khoury Construction Inc. - Loans	1,950,000.00	1,950,000.00
11/08/2011	1	E. Khoury Construction Inc. - Loans	2,450,000.00	2,450,000.00
11/04/2011	39	Ford Credit Canada Limited - Notes	449,770,500.00	449,770.00
10/26/2011	1	Four Points, Prince George - Loans	7,000,000.00	7,000,000.00
11/02/2011	136	Gentor Resources, Inc. - Units	2,163,000.00	2,163,000.00
11/19/2011	1	Gold World Resources Inc. - Common Shares	262,000.00	5,240,000.00
11/09/2011	9	Groupon, Inc. - Common Shares	11,251,338.00	553,000.00
11/09/2011	1	Groupon, Inc. - Common Shares	20,350.00	1,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
11/14/2011	34	Guinea Iron Ore Limited - Units	805,100.00	4,025,500.00
11/09/2011	2	Health Care REIT, Inc. - Common Shares	1,831,320.00	11,000,000.00
11/03/2011	6	Highbank Resources Ltd. - Common Shares	72,500.00	1,450,000.00
11/02/2011	1	Human Genome Sciences, Inc. - Note	2,025,200.00	1.00
11/08/2011	1	IGW Real Estate Investment Trust - Notes	10,000.00	10,152.28
11/07/2011 to 11/10/2011	15	IGW Real Estate Investment Trust - Units	399,353.26	398,191.20
10/28/2011	1	Isabella Developments Inc. - Loans	343,059.84	343,059.84
11/08/2011	2	Kennedy Road Hospitality - Loans	475,956.46	475,956.46
11/22/2011	12	Keymark Resources Inc. - Units	568,500.00	7,580,000.00
11/22/2011 to 11/29/2011	3	KV Mortgage Fund Inc. - Preferred Shares	330,750.00	33,075.00
04/01/2009 to 03/31/2010	1	Mackenzie Ivy Growth & Income Fund - Units	1,581,225.21	159,447.00
11/07/2011	3	Member-Partners Solar Energy Capital Inc. - Bonds	31,000.00	310.00
10/31/2011 to 11/04/2011	4	Member-Partners Solar Energy Limited Partnership - Units	82,000.00	82,000.00
11/01/2011	1	Morgan Stanley Capital I Trust 2011-C3 - Certificates	25,120,988.35	N/A
10/31/2011	1	Newstart Financial Inc. - Note	10,000.00	1.00
09/30/2011	7	Newstart Financial Inc. - Notes	381,000.00	7.00
11/01/2011	1	Nichromet Extraction Inc. - Common Shares	1,749,999.90	5,833,333.00
11/10/2011	36	Northrock Resources Inc. - Units	1,000,000.00	8,000,000.00
10/21/2011	1	NV Gold Corporation - Units	64,000.00	200,000.00
11/11/2011	2	Oban Exploration Limited - Common Shares	110,000.00	220,000.00
11/09/2011	26	Orex Minerals Inc. - Units	1,928,000.00	3,856,000.00
11/23/2011	20	Oroco Resource Corp. - Units	1,193,000.00	4,772,000.00
11/21/2011	10	Pacific North West Capital Corp. - Units	343,040.00	1,703,500.00
11/07/2011	3	Peabody Energy Corporation - Notes	28,201,870.00	27,725.00
11/09/2011	7	Peraso Technologies Inc. - Common Shares	4,389,804.00	4,389,804.00
11/15/2011	1	Powerstream Inc. - Debenture	979,292.00	1.00
10/31/2011	26	Prestige Hospitality HA Inc. - Preferred Shares	522,000.00	523,000.00
11/15/2011 to 11/16/2011	81	Prophecy Platinum Corp. - Common Shares	10,015,620.50	3,709,489.00
11/03/2011	1	Rambler Metals and Mining plc - Common Shares	200,000.00	481,001.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
11/09/2011	2	Rentech Nitrogen Partners, L.P. - Units	1,119,030.00	55,000.00
09/28/2011	6	Roscan Minerals Corporation - Units	140,000.00	1,400,000.00
11/08/2011	8	Rosterware Inc. - Common Shares	224,070.00	2,037.00
11/02/2011	2	Sarup Enterprises Incorporated - Loans	921,157.00	921,157.00
11/04/2011	13	Seven Stars Coal Corp. - Common Shares	240,000.00	4,800,000.00
11/17/2011	1	Shoreline Energy Corp. - Common Shares	279,000.00	40,000.00
08/02/2011	52	SIERRA MADRE DEVELOPMENTS INC - Units	1,360,250.55	8,947,827.00
08/04/2011	48	Smash Minerals Corp. - Common Shares	7,749,049.50	6,779,690.00
10/27/2011	1	Somerset Wallace Developments Limited - Loans	2,000,000.00	2,000,000.00
11/09/2011	3	Sona Resources Corp. - Flow-Through Units	600,000.00	875,141.00
10/25/2011	1	Tamaka Gold Corporation - Common Shares	150,000.00	428,571.00
11/25/2011	27	Tamarack Valley Energy Ltd. - Common Shares	4,100,000.00	10,350,000.00
11/14/2011	1	The Dow Chemical Company - Note	1,016,425.97	1.00
10/01/2011	1	The Presbyterian Church in Canada - Units	1,500,000.00	9,805.00
11/14/2011	2	Triumph Group, Inc. - Common Shares	14,214,951.03	255,000.00
11/10/2011	1	UnitedHealth Group Incorporated - Note	1,010,012.42	1.00
11/08/2011	3	UPCB Finance V Limited - Notes	6,591,000.00	3.00
10/28/2011	1	Verizon Communications Inc. - Note	4,960,400.00	1.00
10/11/2011	6	Victory Gold Mines Inc. - Units	1,207,440.00	5,488,363.64
11/14/2011 to 11/22/2011	71	Viking Gold Exploration Inc. - Flow-Through Units	970,750.00	6,511,667.00
09/09/2011	33	Wescorp Energy Ltd. - Units	785,946.68	8,737,639.00
11/08/2011 to 11/15/2011	57	Zonte Metals Inc. - Units	859,743.70	2,705,733.00
11/15/2011	9	Zorzal Incorporated - Common Shares	350,600.20	584,333.33

This page intentionally left blank

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AltaGas Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated December 1, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
$2,000,000,000.00:
Common Shares
Preferred Shares
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1836465

Issuer Name:
Carmen Energy Inc.
Principal Regulator – Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
Up to $3,000,000.00 - Units and - Up to $3,000,000.00 -• Flow-Through Shares Price: $ * per Unit and $* per Flow-Through Share
Underwriter(s) or Distributor(s):
MACQUARIE PRIVATE WEALTH INC.
Promoter(s):
-
Project #1836848

Issuer Name:
Caymus Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary CPC Prospectus dated November 30, 2011
NP 11-202 Receipt dated November 30, 2011
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares at $0.10 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Gunther Roehlig
Project #1761639

Issuer Name:
Crown Point Ventures Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
$13,000,750.00 - 13,685,000 Common Shares Price: $0.95 per Common Share
Underwriter(s) or Distributor(s):
CASIMIR CAPITAL LTD.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
Promoter(s):
-
Project #1836796

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 5, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
$125,105,000.00 - 3,820,000 REIT Units, Series A PRICE: $32.75 per Unit
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
SCOTIA CAPITAL INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
DUNDEE SECURITIES LTD.
HSBC SECURITIES (CANADA) INC.
BROOKFIELD FINANCIAL CORP.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #1837090

Issuer Name:
Griffiths Energy International Inc.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated December 1, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #1828591

Issuer Name:
IA Clarington Strategic Corporate Bond Class
IA Clarington Strategic Income Class
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectuses dated November 28, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Series A, E, E5, E6, F, F5, F6, F8, L, L5, L6, L8, T5, T6 and T8 Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
IA Clarington Investments Inc.
Project #1835907

Issuer Name:
Innovative Composites International Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
$10,050,000.00 - 13,400,000 Common Shares Price: $0.75 per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
CLARUS SECURITIES INC.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
UNION SECURITIES LTD.
Promoter(s):
-
Project #1836665

Issuer Name:
Karnalyte Resources Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 5, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
$115,045,000.00 - 8,650,000 common shares $13.30 per Offered Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Dundee Securities Ltd.
Scotia Capital Inc.
Canaccord Genuity Corp.
Clarus Securities Inc.
Laurentian Bank Securities Inc.
Promoter(s):
-
Project #1837097

Issuer Name:
Peyto Exploration & Development Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
$100,110,000.00 -4,260,000 Common Shares Price: $23.50 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Peters & Co. Limited
Scotia Capital Inc.
Stifel Nicolaus Canada Inc.
FirstEnergy Capital Corp.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Haywood Securities Inc.
Promoter(s):
-
Project #1836653

Issuer Name:
Plata Latina Minerals Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 6, 2011
Offering Price and Description:
$ * - * Common Shares Price: $ * per Share
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
Gilmour Clausen
Richard Warke
Michael Clarke
W. Durand Eppler
Project #1837214

Issuer Name:
PIMCO Canadian Long Term Bond Fund
PIMCO Canadian Real Return Bond Fund
PIMCO Canadian Short Term Bond Fund
PIMCO Canadian Total Return Bond Fund
PIMCO EqS Pathfinder Fund (Canada)
PIMCO Global Advantage Strategy Bond Fund (Canada)
PIMCO Global Balanced Fund (Canada)
PIMCO Monthly Income Fund (Canada)
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 29, 2011
NP 11-202 Receipt dated November 30, 2011
Offering Price and Description:
Class M Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
PIMCO Canada Corp.
Project #1834972

Issuer Name:
Skope Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
$15,000,000.00 (Minimum Offering) - $ * (Maximum Offering) - 8.0% Convertible Unsecured Subordinated Debentures Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
GMP Securities L.P.
HSBC Securities (Canada) Inc.
Promoter(s):
Henry A. Cohen
Viren S. Wong
Project #1836602

Issuer Name:
Steadyhand Equity Fund
Steadyhand Founders Fund
Steadyhand Global Equity Fund
Steadyhand Income Fund
Steadyhand Savings Fund
Steadyhand Small-Cap Equity Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated December 6, 2011
NP 11-202 Receipt dated December 6, 2011
Offering Price and Description:
Series A and Series O Units
Underwriter(s) or Distributor(s):
Steadyhand Investment Funds Inc.
Promoter(s):
Steadyhand Investment Management Ltd.
Project #1837552

Issuer Name:
Timbercreek Senior Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 2, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
$* (* Shares) Maximum Price: $10.00 per Class A Share and $10.00 per Class B Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
RBC Dominion Securities Inc.
Manulife Securities Incorporated
Scotia Capital Inc.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
Macquarie Capital Markets Canada Ltd.
National Bank Financial Inc.
Promoter(s):
Timbercreek Asset Management Ltd.
Project #1837096

Issuer Name:
Utility Split Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
* Class B Preferred Securities - Price: $* per Class B Preferred Security
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
Promoter(s):
-
Project #1836268

Issuer Name:
AGF Canadian Value Fund
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated November 30, 2011 to the Simplified Prospectus and Annual Information Form dated April 19, 2011
NP 11-202 Receipt dated December 6, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #1711344

Issuer Name:
C8 Venture Capital Inc.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated November 28, 2011
NP 11-202 Receipt dated November 30, 2011
Offering Price and Description:
Maximum Offering: $600,000.00 or 6,000,000 Common Shares; Minimum Offering: $400,000.00 or 4,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
LEEDE FINANCIAL MARKETS INC.
Promoter(s):
John P. Culligan
Project #1816876

Issuer Name:
Capital Preservation Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Series A and F units @ net asset value
Underwriter(s) or Distributor(s):
Global Prosperata Funds Inc.l
Promoter(s):
Global Growth Assets Inc
Project #1815750

Issuer Name:
Claymore Broad Commodity ETF
Claymore Canadian Financial Monthly Income ETF
Claymore Equal Weight Banc & Lifeco ETF
Claymore Managed Futures ETF
Claymore Natural Gas Commodity ETF
Claymore Premium Money Market ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 28, 2011
NP 11-202 Receipt dated November 30, 2011
Offering Price and Description:
Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Claymore Investments, Inc.
Promoter(s):
CLAYMORE INVESTMENTS, INC.
Project #1818813

Issuer Name:
Chemtrade Logistics Income Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 5, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
$80,000,000.00 - 5.75% Convertible Unsecured Subordinated Debentures Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #1831770

Issuer Name:
Dynamic Dividend Advantage Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 5, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1819781

Issuer Name:
EPCOR Utilities Inc.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated December 1, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
$1,000,000,000.00 - Medium Term Note Debentures (unsecured)
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):
-
Project #1828305

Issuer Name:
Gibson Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 5, 2011
NP 11-202 Receipt dated December 5, 2011
Offering Price and Description:
$291,750,000.00 - 15,000,000 Common Shares Price: $19.45 per Common Share
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
RBC DOMINION SECURITIES INC.
J.P. MORGAN SECURITIES CANADA INC.
NATIONAL BANK FINANCIAL INC.
FIRSTENERGY CAPITAL CORP.
Promoter(s):
-
Project #1831592

Issuer Name:
Gideon Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated December 1, 2011
NP 11-202 Receipt dated December 6, 2011
Offering Price and Description:
$250,000.00 or 2,500,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
Martin J. Doane
Project #1821056

Issuer Name:
Series B, Series S5, Series S8, Series I, Series I5, Series I8, Series F,
Series F5 and Series F8 Securities (unless otherwise indicated) of:
Fidelity Asset Allocation Private Pool (formerly Fidelity Tactical Asset Allocation Private Pool)*
Fidelity Asset Allocation Currency Neutral Private Pool (formerly Fidelity Tactical Asset Allocation Currency Neutral Private Pool)*
Fidelity Emerging Markets Debt Investment Trust (available in Series O only)
Fidelity Emerging Markets Equity Investment Trust (available in Series O only)
Fidelity Floating Rate High Income Investment Trust (available in Series O only)
Fidelity High Income Commercial Real Estate Investment Trust (available in Series O only)
Fidelity Convertible Securities Investment Trust (available in Series O only)
Fidelity U.S. Small/Mid Cap Equity Investment Trust (formerly Fidelity U.S. Small/Mid Cap Investment Trust) (available in Series O only)
(*Classes of Fidelity Capital Structure Corp.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 1, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
Series B, Series S5, Series S8, Series I, Series I5, Series I8, Series F, Series F5 and Series F8 Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
FIDELITY INVESTMENTS CANADA ULC
Project #1812303

Issuer Name:
Genesis Trust II
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated December 1, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Up to $7,000,000,000.00 - Real Estate Secured Line of Credit-Backed Notes
Underwriter(s) or Distributor(s):
TD Securities Inc.
Promoter(s):
The Toronto Dominion Bank
Project #1829254

Issuer Name:
Pinnacle Balanced Growth Portfolio
Pinnacle Balanced Income Portfolio
Pinnacle Conservative Balanced Growth Portfolio
Pinnacle Conservative Growth Portfolio
Pinnacle Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Series A Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
-
Project #1818229

Issuer Name:
Scotia T-Bill Fund (Series A units)
Scotia Premium T-Bill Fund (Series A units)
Scotia Money Market Fund (Series A, Series I, Premium Series, Series M and Advisor Series units)
Scotia U.S. $ Money Market Fund (Series A units)
Scotia Mortgage Income Fund (Series A, Series F and Series I units)
Scotia Bond Fund (Series A and Series I units)
Scotia Canadian Income Fund (Series A, Series F, Series I, Series M and Advisor Series units)
Scotia U.S. $ Bond Fund (Series A and Series F units)
Scotia Global Bond Fund (Series A, Series F and Series I units)
Scotia Diversified Monthly Income Fund (Series A, Series F and Advisor Series units)
Scotia Income Advantage Fund (Series A units)
Scotia Canadian Balanced Fund (Series A and Series F units)
Scotia Canadian Dividend Income Fund (Series A and Series I units)
Scotia Canadian Tactical Asset Allocation Fund (Series A, Series F and Advisor Series units)
Scotia Global Balanced Fund (Series A and Series I units)
Scotia U.S. $ Balanced Fund (Series A units)
Scotia Canadian Dividend Fund (Series A, Series F, Series I, Series M and Advisor Series units)
Scotia Canadian Blue Chip Fund (Series A ,Series F and Series I units)
Scotia Canadian Growth Fund (Series A, Series F, Series I and Advisor Series units)
Scotia Canadian Small Cap Fund (Series A, Series F, Series I and Series M units)
Scotia Resource Fund (Series A, Series F and Series I units)
Scotia U.S. Blue Chip Fund (formerly Scotia U.S. Growth Fund) (Series A, Series F and Series I units)
Scotia U.S. Value Fund (Series A, Series F and Series I units)
Scotia International Value Fund (Series A, Series F, Series I and Advisor Series units)
Scotia European Fund (Series A, Series F and Series I units)
Scotia Pacific Rim Fund (Series A, Series F and Series I units)
Scotia Latin American Fund (Series A, Series F and Series I units)
Scotia Global Dividend Fund (Series A and Series I units)
Scotia Global Growth Fund (Series A, Series F, Series I and Advisor Series units)
Scotia Global Small Cap Fund (Series A, Series F and Series I units)
Scotia Global Opportunities Fund (Series A, Series F, Series I and Advisor Series units)
Scotia Global Climate Change Fund (Series A, Series F, Series I and Advisor Series units)
Scotia Canadian Bond Index Fund (Series A, Series F and Series I units)
Scotia Canadian Index Fund (Series A, Series F and Series I units)
Scotia U.S. Index Fund (Series A, Series F and Series I units)

Scotia CanAm® Index Fund (Series A and Series F units)
Scotia Nasdaq Index Fund (Series A and Series F units)
Scotia International Index Fund (Series A, Series F and Series I units)
Scotia Selected Income & Modest Growth Portfolio (Series A, Series F and Advisor Series units)
Scotia Selected Balanced Income & Growth Portfolio (Series A, Series F and Advisor Series units)
Scotia Selected Moderate Growth Portfolio (Series A, Series F and Advisor Series units)
Scotia Selected Aggressive Growth Portfolio (Series A, Series F and Advisor Series units)
Scotia Partners Diversified Income Portfolio (Series A units)
Scotia Partners Income & Modest Growth Portfolio (Series A and Series F units)
Scotia Partners Balanced Income & Growth Portfolio (Series A and Series F units)
Scotia Partners Moderate Growth Portfolio (Series A and Series F units)
Scotia Partners Aggressive Growth Portfolio (Series A and Series F units)
Scotia Vision Conservative 2010 Portfolio (Series A units)
Scotia Vision Aggressive 2010 Portfolio (Series A units)
Scotia Vision Conservative 2015 Portfolio (Series A units)
Scotia Vision Aggressive 2015 Portfolio (Series A units)
Scotia Vision Conservative 2020 Portfolio (Series A units)
Scotia Vision Aggressive 2020 Portfolio (Series A units)
Scotia Vision Conservative 2030 Portfolio (Series A units)
Scotia Vision Aggressive 2030 Portfolio (Series A units)
Principal Regulator - Ontario

Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011

Offering Price and Description:
Series A units, Series F, Series I and Premium Series units

Underwriter(s) or Distributor(s):
Scotia Securities Inc.

Promoter(s):
-

Project #1818276

Issuer Name:
Advisor Series units of:
Scotia Money Market Fund
Scotia Canadian Income Fund
Scotia Diversified Monthly Income Fund
Scotia Canadian Tactical Asset Allocation Fund
Scotia Canadian Dividend Fund
Scotia Canadian Growth Fund
Scotia International Value Fund
Scotia Global Growth Fund
Scotia Global Opportunities Fund
Scotia Global Climate Change Fund
Scotia Selected Income & Modest Growth Portfolio
Scotia Selected Balanced Income & Growth Portfolio
Scotia Selected Moderate Growth Portfolio
Scotia Selected Aggressive Growth Portfolio
Principal Regulator - Ontario

Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011

Offering Price and Description:
Advisor Series units @ net asset value

Underwriter(s) or Distributor(s):
Scotia Securities Inc.

Promoter(s):
-

Project #1818286

Issuer Name:
Series M units (formerly Manager Class)(and Series I units where noted) of:
Scotia Money Market Fund
Scotia Canadian Income Fund
Scotia Private Canadian Corporate Bond Pool (formerly Scotia Canadian Corporate Bond Fund)
(Series I units available)
Scotia Private Short-Mid Government Bond Pool (formerly Scotia Short-Mid Government Bond
Fund) (Series I units available)
Scotia Short Term Bond Fund
Scotia Private Advantaged Income Pool (formerly Scotia Advantaged Income Fund)
Scotia Private Canadian Preferred Share Pool
Scotia Canadian Dividend Fund
Scotia Private Canadian Equity Pool (formerly Scotia Canadian Equity Fund) (Series I units
available)
Scotia Canadian Small Cap Fund
Scotia Private North American Equity Pool (formerly Scotia North American Equity Fund)
Scotia Private Cyclical Opportunities Pool (formerly Scotia Cyclical Opportunities Fund)
Scotia Private U.S. Dividend Pool
Scotia Private U.S. Equity Pool (formerly Scotia U.S. Equity Fund) (Series I units available)
Scotia Private International Core Equity Pool (formerly Scotia International Equity Fund) (Series I
units available)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Series M and Series I units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
Scotia Asset Management L.P.
Project #1818284

Issuer Name:
Series A units (and Series T units where noted) of:
Scotia INNOVA Income Portfolio (also Series T units)
Scotia INNOVA Balanced Income Portfolio (also Series T units)
Scotia INNOVA Balanced Growth Portfolio (also Series T units)
Scotia INNOVA Growth Portfolio
Scotia INNOVA Maximum Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 1, 2011
Offering Price and Description:
Series A and T units @ net asset value
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
-
Project #1818239

Issuer Name:
Pinnacle Series (formerly Class A) and Series F units (unless otherwise noted)
and Series I and Series M (formerly Manager Class) units available where noted of:
Scotia Private Short Term Income Pool
(formerly Pinnacle Short Term Income Fund)
Scotia Private Income Pool
(formerly Pinnacle Income Fund) (also Series I units)
Scotia Private High Yield Income Pool
(formerly Pinnacle High Yield Income Fund) (also Series I and Series M units)
Scotia Private American Core-Plus Bond Pool
(formerly Pinnacle American Core-Plus Bond Fund) (also Series I units)
Scotia Private Strategic Balanced Pool
(formerly Pinnacle Strategic Balanced Fund)
Scotia Private Canadian Value Pool
(formerly Pinnacle Canadian Value Equity Fund) (also Series I units)
Scotia Private Canadian Mid Cap Pool
(formerly Pinnacle Canadian Mid Cap Equity Fund) (also Series I units)
Scotia Private Canadian Growth Pool
(formerly Pinnacle Canadian Growth Equity Fund) (also Series I units)
Scotia Private Canadian Small Cap Pool
(formerly Pinnacle Canadian Small Cap Equity Fund) (also Series I units)
Scotia Private U.S. Value Pool
(formerly Pinnacle American Value Equity Fund) (also Series I units)
Scotia Private U.S. Large Cap Growth Pool
(formerly Pinnacle American Large Cap Growth Equity Fund) (also Series I units)
Scotia Private U.S. Mid Cap Value Pool
(formerly Pinnacle American Mid Cap Value Equity Fund) (also Series I and Series M units)
Scotia Private U.S. Mid Cap Growth Pool
(formerly Pinnacle American Mid Cap Growth Equity Fund) (also Series I and Series M units)
Scotia Private International Equity Pool
(formerly Pinnacle International Equity Fund) (also Series I units)
Scotia Private International Small to Mid Cap Value Pool
(formerly Pinnacle International Small to Mid Cap Value Equity Fund) (also Series I units)
Scotia Private Emerging Markets Pool
(formerly Pinnacle Emerging Markets Equity Fund) (also Series I and Series M units)
Scotia Private Global Equity Pool
(formerly Pinnacle Global Equity Fund) (also Series I units)
Scotia Private Global Real Estate Pool
(formerly Pinnacle Global Real Estate Securities Fund) (also Series I units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 30, 2011
NP 11-202 Receipt dated December 2, 2011
Offering Price and Description:
Pinnacle Series and Series F units. Series I and Series M (formerly Manager Class) Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Scotia Capital Inc.(for Pinnacle Class and Class F units only)
Scotia Capital Inc. (for Pinnacle Class and Class F units only)
Scotia Capital Inc. (for Pinnacle Class and Class F units only)
Scotia Capital Inc. (for Pinnacle Class only)
Scotia Capital Inc. (for Pinnacle Class and Class F units)
Scotia Capital Inc. (for Pinnacle Class and Class F units only)
Scotia Capital Inc. (for Class A and F units only)
Promoter(s):
-
Project #1818252

Issuer Name:
Winrock Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated November 28, 2011
NP 11-202 Receipt dated November 30, 2011
Offering Price and Description:
MINIMUM OF $300,000 (1,500,000 UNITS) AND
MAXIMUM OF $400,000 (2,000,000 UNITS)
PRICE: $0.20 PER UNIT
Underwriter(s) or Distributor(s):
Wolverton Securities Ltd.
Promoter(s):
PAUL DICKSON
HARVEY D. DICK
EDWARD J. DRUMMOND
DERRICK STRICKLAND
Project #1800515

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Uxbridge Capital Funding Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 30, 2011
New Registration	Toronto Trust Management Ltd.	Investment Fund Manager	December 2, 2011
New Registration	Parador Asset Management, LLC	Portfolio Manager	December 5, 2011
Consent to Suspension (Pending Surrender)	Cassis Capital Corp.	Exempt Market Dealer	December 5, 2011
New Registration	Banack Capital Group Ltd.	Exempt Market Dealer	December 6, 2011

This page intentionally left blank

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.2 Marketplaces

13.2.1 Notice of Commission Approval – Amendments to the Rules of the Toronto Stock Exchange to Allow Non-Displayed Orders of a Minimum Quantity to Have Trading Priority over Other Non-Displayed Orders

TSX INC. (TSX)

AMENDMENTS TO THE RULES OF THE TORONTO STOCK EXCHANGE TO ALLOW NON-DISPLAYED ORDERS OF A MINIMUM QUANTITY TO HAVE TRADING PRIORITY OVER OTHER NON-DISPLAYED ORDERS

NOTICE OF COMMISSION APPROVAL

On December 2, 2011, the Ontario Securities Commission approved amendments to Rules 1-101, 4-801 and 4-802 of the TSX to allow non-displayed orders (Dark Orders) of a certain size determined by the TSX (Minimum Quantity) to have trading priority over other Dark Orders without such a condition, provided the Dark Orders are at the same price. The amendments also introduce a definition of a Minimum Quantity.

The amendments were published for comment on July 8, 2011 for a 30 day comment period. No comments were received. Subsequent to their publication, the TSX made a non-material amendment to the definition of Minimum Quantity to clarify that it is the minimum size for the execution of an order. The TSX also made a consequential amendment to subsection (3) of TSX Rule 4-802 to clarify that the allocation of trades is subject to the priority of Dark Orders marked with a Minimum Quantity. The rule amendments blacklined to show the changes, are also published.

**AMENDMENTS TO THE RULES OF THE TORONTO STOCK EXCHANGE
TO ALLOW NON-DISPLAYED ORDERS OF A MINIMUM QUANTITY
TO HAVE TRADING PRIORITY OVER OTHER NON-DISPLAYED ORDERS**

PART 1 - INTERPRETATION

1-101 Definitions (Amended)

*****

"Minimum Quantity" means the minimum size for execution of an order which must not be less than such size as determined by the Exchange.

Added (●, 2011)

*****

DIVISION 8 – POST OPENING

4-801 "Establishing Priority"

(1) A disclosed order shall be executed prior to an Undisclosed Order or any undisclosed portion of an order at the same price; an undisclosed portion of an order shall be executed prior to an Undisclosed Order at the same price; and an Undisclosed Order with a Minimum Quantity shall be executed prior to an Undisclosed Order without a Minimum Quantity at the same price.

Amended (●, 2011)

(2) Subject to Rule 4-801(1) and Rule 4-802, an order at a particular price shall be executed prior to any orders at that price entered subsequently, and after all orders entered previously ("time priority"), except as may be provided otherwise.

(3) An order shall lose time priority if its disclosed volume is increased and shall rank behind all other disclosed orders at that price.

Amended (March 1, 2011)

*****

4-802 Allocation of Trades (Amended)

(1) ~~An~~Subject to 4-801(1), an order that is entered for execution on the Exchange may execute without interference from any order in the Book if the order is:

(a) part of an internal cross;

(b) an unattributed order that is part of an intentional cross;

(c) part of an intentional cross entered by a Participating Organization in order to fill a client's Special Trading Session order;

(d) part of an exempt related security cross, provided that the order is exempt from interference only to the extent that there are no offsetting orders entered in the Book, at least one of which is an order entered by the same Participating Organization, which can fill both the client's order for the particular security, in whole or in part, and an equivalent volume of the client's order for the related security. Orders in the Book will only be considered to be offsetting orders if the related security spread on execution of the clients' orders against orders in the Book is equal to or more beneficial than the related security spread offered by the Participating Organization for the contingent cross arrangement;

(e) entered as part of a Specialty Price Cross; or

(f) part of a Designated Trade.

Amended (●, 2011)

(2) Subject to subsection (1), an intentional cross executed on the Exchange will be subject to interference from orders in the Book from the same Participating Organization according to time priority, provided that such orders in the Book are attributed orders.

(3) ~~A~~Subject to 4-801(1), a tradeable order that is entered in the Book and is not a Bypass Order shall be executed on allocation in the following sequence:

(a) to offsetting orders entered in the Book by the Participating Organization that entered the tradeable order according to the time of entry of the offsetting order in the Book, provided that neither the tradeable order nor the offsetting order is an unattributed order; then

(b) to offsetting orders in the Book according to the time of entry of the offsetting order in the Book; then

(c) to the Market Maker if the tradeable order is disclosed and is eligible for a Minimum Guaranteed Fill.

(4) A tradeable order that is entered in the Book and is a Bypass Order shall execute against the disclosed portion of offsetting orders in the Book according to the price/time priority established in Rule 4-801.

Amended (~~March 1~~, ●, 2011)

This page intentionally left blank

Index