The Ontario Securities Commission

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May 23, 2013

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

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May 23, 2013

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- - - - - - - - - - - - - - - - - - - -

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

Ontario Securities Commission
Cadillac Fairview Tower
20 Queen Street West, 17th Floor
Toronto, Ontario
M5H 3S8

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Judith N. Robertson	—	JNR
AnneMarie Ryan	—	AMR
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

May 27, 2013 10:00 a.m.	**AMTE Services Inc., Osler Energy Corporation, Ranjit Grewal, Phillip Colbert and Edward Ozga** s. 127 C. Rossi in attendance for Staff Panel: JEAT
May 27-31, 2013 10:00 a.m.	**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: EPK
May 27, 2013 11:00 a.m.	**Heritage Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
May 28-May 31, June 5-6, 10-12, 14-17, 19-21 & July 22-26, 2013 10:00 a.m.	**Jowdat Waheed and Bruce Walter** s. 127 J. Lynch in attendance for Staff Panel: CP/SBK/PLK
May 31, 2013 10:00 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: JDC

June 5, 2013 9:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos known as Peter Kuti), Jan Chomica, and Lorne Banks** s.127 C. Rossi in attendance for Staff Panel: CP
June 5-17 & June 19-25, 2013 10:00 a.m.	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm in attendance for Staff Panel: JDC/EPK/CWMS
June 6, 2013 10:00 a.m.	**New Hudson Television Corporation, New Hudson Television L.L.C. & James Dmitry Salganov** s. 127 C. Watson in attendance for Staff Panel: AJL
June 6, 2013 10:00 a.m.	**New Hudson Television LLC & Dmitry James Salganov** s. 127 C. Watson in attendance for Staff Panel: AJL
June 6, 2013 11:00 a.m.	**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 J. Feasby in attendance for Staff Panel: MGC
June 6, 2013 11:00 a.m.	**Ground Wealth Inc., Michelle Dunk, Adrion Smith, Joel Webster, Douglas DeBoer, Armadillo Energy Inc., Armadillo Energy, Inc., and Armadillo Energy LLC** s. 127 J. Feasby in attendance for Staff Panel: MGC
June 19, 2013 11:00 a.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
June 27, 2013 10:00 a.m.	**Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk** s. 37, 127 and 127.1 C. Price in attendance for Staff Panel: JDC
July 3, 2013 10:00 a.m.	**Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.** s. 127 J. Feasby in attendance for Staff Panel: VK
July 4, 2013 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

July 11, 2013 10:00 a.m.	**Moncasa Capital Corporation and John Frederick Collins** s. 127 T. Center in attendance for Staff Panel: EPK
July 19, 2013 10:00 a.m.	**Children's Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
July 31, 2013 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: MGC
August 1, 2013 10:00 a.m.	**Ronald James Ovenden, New Solutions Capital Inc., New Solutions Financial Corporation and New Solutions Financial (Ii) Corporation** s. 127 Y. Chisholm in attendance for Staff Panel: JEAT
August 14, 2013 10:00 a.m.	**Quadrexx Asset Management Inc., Quadrexx Secured Assets Inc., Offshore Oil Vessel Supply Services LP, Quibik Income Fund and Quibik Opportunities Fund** s. 127 D. Ferris in attendance for Staff Panel: JEAT
August 27, 2013 2:30 p.m.	**Sandy Winick, Andrea Lee Mccarthy, Kolt Curry, Laura Mateyak, Gregory J. Curry, American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Liquid Gold International Corp., (aka Liquid Gold International Inc.) and Nanotech Industries Inc.** s. 127 J. Feasby/C. Watson in attendance for Staff Panel: JDC
September 4, 2013 11:00 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 C. Watson in attendance for Staff Panel: EPK
September 5-9 & September 11-13, 2013 10:00 a.m.	**Onix International Inc. and Tyrone Constantine Phipps** s. 127 C. Rossi in attendance for Staff Panel: TBA
September 16-23, September 25-October 7, October 9-21, October 23-November 4, November 6-18, November 20-December 2, December 4-16 & December 18-20, 2013 10:00 a.m.	**Eda Marie Agueci, Dennis Wing, Santo Iacono, Josephine Raponi, Kimberley Stephany, Henry Fiorillo, Giuseppe (Joseph) Fiorini, John Serpa, Ian Telfer, Jacob Gornitzki and Pollen Services Limited** s. 127 U. Sheikh in attendance for Staff Panel: JDC

October 15-21, October 23-29, 2013 10:00 a.m.	**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: EPK	
November 4 & November 6-18, 2013 10:00 a.m.	**Systematech Solutions Inc., April Vuong and Hao Quach** s. 127 D. Ferris in attendance for Staff Panel: TBA	
January 13, January 15-27, January 29-February 10, February 12-14 & February 18-21, 2014 10:00 a.m.	**International Strategic Investm International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.** s. 127 C. Watson in attendance for Staff Panel: TBA	
May 5-May 16 & May 20-June 20, 2014 10:00 a.m.	**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	
In writing	**Morgan Dragon Development Corp., John Cheong (aka Kim Meng Cheong), Herman Tse, Devon Ricketts and Mark Griffiths** s. 127 J. Feasby in attendance for Staff Panel: EPK	
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 Panel: TBA	
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s.127 Panel: TBA	
TBA	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA	
TBA	**Gold-Quest International and Sandra Gale** s.127 C. Johnson 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	**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 **Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt**

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA **David M. O'Brien**

s. 37, 127 and 127.1

B. Shulman in attendance for Staff

Panel: TBA

TBA **Bunting & Waddington Inc., Arvind Sanmugam, Julie Winget and Jenifer Brekelmans**

s. 127

M. Britton/A. Pelletier in attendance for Staff

Panel: TBA

TBA **Beryl Henderson**

s. 127

C. Weiler in attendance for Staff

Panel: TBA

TBA **Crown Hill Capital Corporation and Wayne Lawrence Pushka**

s. 127

A. Perschy/A. Pelletier in attendance for Staff

Panel: TBA

TBA **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

TBA **Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaiants 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 & 127.1

D. Campbell in attendance for Staff

Panel: TBA

TBA **Ernst & Young LLP**

s. 127 and 127.1

A. Clark in attendance for Staff

Panel: TBA

TBA **Newer Technologies Limited, Ryan Pickering and Rodger Frey**

s. 127 and 127.1

B. Shulman in attendance for staff

Panel: TBA

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

s.127

H. Craig 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

H. Craig in attendance for Staff

Panel: TBA

TBA

Fawad Ul Haq Khan and Khan Trading Associates Inc. carrying on business as Money Plus

s. 60 and 60.1 of the *Commodity Futures Act*

T. Center in attendance for Staff

Panel: TBA

TBA

Global RESP Corporation and Global Growth Assets Inc.

s. 127

D. Ferris in attendance for Staff

Panel: TBA

TBA

Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh

s. 127 and 127.1

P. Foy in attendance for Staff

Panel: TBA

TBA

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) & (5)

A. Heydon/Y. Chisholm in attendance for Staff

Panel : TBA

TBA

Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein

s. 127

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA

Vincent Ciccone and Cabo Catoche Corp. (a.k.a. Medra Corp. and Medra Corporation)

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA

Portfolio Capital Inc., David Rogerson and Amy Hanna-Rogerson

s.127

J. Lynch in attendance for Staff

Panel: TBA

TBA

Heritage Management Group and Anna Hrynisak

s.127

C. Rossi in attendance for Staff

Panel: TBA

TBA

Blackwood & Rose Inc., Steven Zetchus and Justin Kreller (also known as Justin Kay)

s. 37, 127 and 127.1

C. Rossi in attendance for Staff

Panel: TBA

TBA

Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks

s.127

C. Rossi in attendance for Staff

Panel: TBA

TBA

Energy Syndications Inc. Green Syndications Inc. , Syndications Canada Inc., Daniel Strumos, Michael Baum and Douglas William Chaddock

s. 127

C. Johnson in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

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 OSC Investor Roundtable – Investing in Start-ups or Small and Medium Sized Companies

Interested in investing in start-ups or small and medium sized companies? Interested in investing through crowdfunding over the internet?

If so, the OSC wants to hear from you

You are invited to attend an OSC investor roundtable to share your views on investing in start-ups or small and medium sized companies (SMEs).

Date: **Tuesday, June 11, 2013**
9:00 am to 11:00 am

Location: 22nd Floor OSC Training Room
20 Queen Street West, Toronto, Ontario

OSC ONTARIO SECURITIES COMMISSION

Cost: **No charge**

RSVP: Email: exemptmarketconsultations@osc.gov.on.ca
Deadline: Thursday, June 6, 2013
Please note that space is limited so reserve your spot now

WHO SHOULD ATTEND AND WHY?

Anyone who is interested in:

- investing in start-ups or SMEs, or
- learning more about crowdfunding (which involves investing over the internet).

This is your opportunity to share your views with OSC staff. At the session, there will be a brief presentation by OSC staff, followed by an open discussion with attendees.

WHAT IS THE ROUNDTABLE ABOUT?

The OSC is considering ways to help start-ups and SMEs raise money by issuing securities, such as shares. One option under consideration is “crowdfunding”, which would allow businesses to sell securities over the internet. If crowdfunding was adopted, we would need to ensure that there are sufficient protections for investors. For more information, please see the attached note.

The OSC wants to know if you want greater access to investment opportunities in start-ups and SMEs, and, if so, what kind of information you would want to have and how much you would be willing to invest.

1.1.3 OSC Exempt Market Review – Investor Roundtable – Backgrounder

ONTARIO SECURITIES COMMISSION (OSC) EXEMPT MARKET REVIEW
INVESTOR ROUNDTABLE – BACKGROUNDER

JUNE 11, 2013

The OSC is considering ways to help businesses raise money, particularly start-ups and small and medium sized enterprises (SMEs), while protecting the interests of investors. We are considering options for allowing businesses to sell securities (such as shares) to the public without having to prepare and file a prospectus first. There are additional risks when you invest in a business that is not listed on a stock exchange. We want to know if people are interested in making these types of investments and if so, what kind of information they would want to have and how much they would be willing to invest.

The current framework

Shares may not be sold to the public without a prospectus. A prospectus:

- includes detailed information about the business,
- describes the shares and any risks with the investment, and
- provides for some rights to purchasers if the prospectus contains a misleading statement

A business that offers shares to the public under a prospectus becomes a public company. Public companies have certain responsibilities; for example, they must provide ongoing information to the public on how the business is doing. Start-ups and SMEs might want to raise money by selling shares to the public, but may not be ready for the costs and obligations that are involved with being a public company.

In limited cases, shares may be sold without a prospectus. This is typically referred to as an exempt distribution that takes place in the exempt market. There are specific rules that determine when this is allowed. Generally, these rules are based on a rationale that justifies removing the prospectus requirement. For example, an exemption may be based on the idea that a certain type of purchaser is sophisticated or has the resources to obtain expert advice and therefore does not need the information and protections provided by a prospectus.

Exempt purchasers include individuals whose annual net income is at least $200,000, or $300,000 combined with a spouse. They also include people who meet other financial or net worth tests. In Ontario, only about 4% of the general population qualify.

In addition to the requirement to prepare and file a prospectus, persons or companies that are “in the business” of trading in shares or advising others about shares must register with the OSC. There is no requirement for issuers to sell shares using a registrant, but this is usually how shares are sold.

OSC exempt market review

On December 14, 2012, we published OSC Staff Consultation Paper 45-710 *Considerations for New Capital Raising Prospectus Exemptions* (the Consultation Paper). The Consultation Paper describes four concept ideas for new prospectus exemptions in Ontario. One of these concept ideas is “crowdfunding”.

Crowdfunding

Crowdfunding is a term used to describe a method of raising small amounts of money from many people over the internet. There are different types of crowdfunding that currently exist. For example, there are websites that

allow people to raise money for charity. On other websites people raise money for a particular project and in return provide a perk or reward. Currently, in Ontario, businesses are not allowed to raise money from the public over the internet by selling shares.

The Consultation Paper describes a concept idea to allow businesses to sell shares through crowdfunding. Under this concept idea:

- A business could raise up to $1.5 million under this exemption in a 12-month period
- Only certain types of securities could be issued, such as common shares
- An investor could not invest more than $2,500 in a single investment and no more than $10,000 in total in a calendar year
- Some basic information would have to be provided to investors before they purchase the shares
- Investors would have to sign a form acknowledging they are aware of the risks associated with the investment
- Investors would have two days to reconsider their investment and withdraw if they wish
- The shares would be sold through an internet website that is registered with the OSC and that is required to do criminal checks on the individuals involved with the business
- Investors would have limited ability to sell these shares

Topics for discussion

Investing in start-ups and SMEs

1. Would you like to be able to invest in a start-up or SME? Why or why not?
2. What factors would influence whether or not you decide to invest in a particular business?
3. What risks most concern you about investing in start-ups and SMEs?
4. How much would you be willing to invest?

Information you would want first

5. What types of information would you want to have to help you decide whether to invest in a start-up or SME?
6. If you decided to invest, would you want to receive ongoing information from the company on how it is doing? If yes, what information would be most important to you?

Advice

7. Would you seek advice before deciding to invest in a start-up or SME? If so, whose advice would you seek?

Crowdfunding

8. Are you familiar with existing crowdfunding websites that allow people to raise money for projects (but not sell shares), such as Kickstarter, Rockethub and Indiegogo?
9. Would you consider investing in a start-up or SME that wasn't listed on a stock exchange that you learned about over the internet? Why or why not?
10. Would you consider investing in a start-up or SME that was recommended to you by friends over the internet, such as on social media websites?
11. What do you think are the risks associated with investing over the internet?
12. Are you comfortable investing over the internet? If so, what amount of money would you be willing to invest in a business over the internet?

1.1.4 The Investment Funds Practitioner – May 2013

May 2013

OSC

THE INVESTMENT FUNDS PRACTITIONER

From the Investment Funds Branch, Ontario Securities Commission

What is the Investment Funds Practitioner?

The Practitioner is an overview of recent issues arising from applications for discretionary relief, prospectuses, and continuous disclosure documents that investment funds filed 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 (CSA).

Request for Feedback

This is the ninth edition of the Practitioner. Previous editions of the Practitioner are available on the OSC website www.osc.gov.on.ca under Investment Funds – Information For: Investment Funds.[1] 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.

Prospectuses

Scholarship Plans

Since March 2012, the CSA have been working with a group of scholarship plan providers to consider the terms and conditions on which CSA staff would permit, by way of an undertaking (Undertaking), scholarship plans to make limited investments of the income portion of the plans (not principal) in equity securities, otherwise not contemplated by National Policy 15 (NP15). This is in response to feedback that in the current low-interest rate environment, it has been difficult to obtain sufficient rates of return on plan investments, currently limited to fixed income securities. In response, CSA staff have been considering terms and conditions of the Undertaking that would further the CSA's policy objectives with respect to the regulation of scholarship plans. These terms and conditions include:

- precluding further investment by scholarship plans in principal protected notes;
- matching the plans' educational assistance plan eligibility rules with the eligibility rules for RESPs under the *Income Tax Act* (Canada); and
- mandatory availability to subscribers and potential subscribers of the services of Ombudsman for Banking Services and Investments (OBSI) at the plan providers' expense, to resolve a complaint made by a subscriber or potential subscriber about the manager's dealing activities in its capacity as a registered scholarship plan dealer.

Once an Undertaking is executed, implementation of the terms and conditions of the Undertaking will be subject to a transition period and termination on the earlier of (i) 365 days from the date of notice from the principal regulator of the plans to the manager that the Undertaking may no longer be relied upon, (ii) the Undertaking being superseded or replaced by a new, amended Undertaking, agreed to between the manager and the applicable CSA jurisdictions (Jurisdictions) in respect of the same subject matter, and (iii) the coming into force of any rule of the Jurisdictions that regulates the subject matter of the

[1] At http://www.osc.gov.on.ca/en/InvestmentFunds_index.htm.

Undertaking. A plan provider who executes the Undertaking will be required to annually confirm compliance with the terms of the Undertaking and certify that neither it, nor the plans, are in default of securities legislation in any jurisdiction of Canada.

Scholarship plan providers that are interested in negotiating this type of Undertaking should contact their principal regulator as appropriate.

Character Conversion Transactions

On March 21, 2013, the Minister of Finance presented the federal government's 2013 budget. The budget contains proposed amendments to the *Income Tax Act* (Canada) (the Budget Amendments) which impact certain investment funds that use specified derivatives, typically, forward agreements, to provide investors with an economic return based on the performance of a reference fund. Through the use of a forward agreement, an investment fund characterizes the economic return of a reference fund, which would otherwise be treated as ordinary income, as capital gains. The Budget Amendments will effectively prohibit this character conversion.

In response to the Budget Amendments, we published OSC Staff Notice 81-719 *Effect of Proposed Income Tax Act Amendments on Investment Funds – Character Conversion Transactions* on April 3, 2013. The notice sets out staff's views on the types of considerations investment fund managers should be contemplating in response to the Budget Amendments, including their disclosure obligations, the need to cap their affected funds to new and additional investments, and communications with current securityholders. Investment fund managers should also consider their longer-term responses to the Budget Amendments, including whether changes to their funds' investment objectives and strategies will be needed or whether the funds need to be restructured, reorganized or terminated.

Fees Disclosure in Short-Form Prospectuses

A prospectus must provide full, true and plain disclosure of all material facts relating to the securities being distributed. Filers who use short-form prospectuses to qualify their investment funds are reminded that staff consider the fees and expenses of the fund to be material facts that should be disclosed in the investment fund's prospectus. In addition to the form requirements of Form 44-101F1 – *Short Form Prospectus,* filers are expected to include a "Fees and Expenses" section in their short-form prospectus of an investment fund which describes the (i) expenses of the offering, (ii) the subscription fee, (iii) management fees, (iv) operating expenses, (v) other fees and expenses of the fund, if any, and (vi) fees payable by securityholders of the investment fund, as applicable.

Past Performance Disclosure in Flow-Through LP Prospectuses

In many flow-through limited partnership prospectuses, staff have noticed that performance data includes annualized after-tax returns. Filers have indicated that the after-tax returns are relevant to investors of flow-through limited partnerships since investors may be entitled to certain investment tax credits. Generally, staff are prepared to allow the presentation of annualized after-tax returns provided that annualized before-tax returns are also disclosed in the prospectus. We remind filers that where performance data is presented in a long-form prospectus, annual compound returns must be presented for standard applicable performance periods of 1, 3, 5 and 10 year periods and the period since inception unless otherwise specified by the requirements of Form 41-101F2 – *Information Required in an Investment Fund Prospectus.*

Disclaimers of Liability for Third Party Information in Prospectuses

We have seen disclaimers in prospectuses that relate to the accuracy of third party information. The disclaimers indicate that the issuer is not responsible for information provided by third parties, which is typically information that is publicly available, including economic data or index information provided by an index sponsor. Staff are of the view that such disclaimers do not reflect the liability for prospectus misrepresentations under securities law. Section 130 of the *Securities Act* (Ontario) makes an issuer liable for any misrepresentation in a prospectus, even if the misrepresentation was taken from a reliable third party source. The only defence to a misrepresentation claim available to an issuer is that the purchaser making the claim was aware of the misrepresentation at the time of purchase. As issuers are unable to disclaim liability for third party information in a prospectus, staff's position is that such disclaimers should not be included in prospectuses.

Investments in Mortgages by Investment Funds

Recently, we have seen an increase in the number of non-redeemable investment funds which invest all or substantially all of their assets in pools of non-guaranteed mortgages.

In our reviews, staff have begun to examine the relationship between the issuer and the other entities named in the prospectus, namely, the mortgage originator, the mortgage service provider and the promoter of the issuer, to determine whether, in substance, the issuer is a corporate issuer rather than an investment fund. Generally, any degree of control or active

involvement by the mortgage originator or service provider in the formation or operation of the non-redeemable investment fund or the investment portfolio of the investment fund will cause staff to question whether the issuer is an investment fund.

We expect to provide further guidance on this topic. In the interim, issuers and their counsel are encouraged to contact staff at an early stage in the planning of an offering by a non-redeemable investment fund that seeks to invest in mortgages as described above.

Applications

Margin Deposit Exemptive Relief

Staff have recently been reconsidering margin deposit relief for commodity pools. Past relief permitted portfolio assets of up to 30% of a commodity pool's net asset value (NAV) to be deposited as margin with any single dealer for certain specified derivatives transactions. The limit, under subsections 6.8(1) and (2) of NI 81-102, which represents an exception to the custodial provisions of NI 81-102, would otherwise be 10%. Past relief was based in part on the condition that these assets would be held by the dealer in a segregated account and would not be available to satisfy any claims against the dealer made by parties other than the fund or its manager. We are reconsidering the conditions of past relief and similar relief going forward because it has come to our attention that these assets could be available to satisfy claims against the dealer made by parties other than the fund or its manager, for example, in certain circumstances of financial failure or bankruptcy of the dealer.

We continue to review and monitor developments in this area and will provide further guidance as needed. Issuers and their counsel are encouraged to contact staff at an early stage in the planning of any structure that may give rise to any questions concerning this issue.

Continuous Disclosure

Review of Bullion Funds

In response to the significant drop in gold bullion prices in mid-April 2013, staff conducted a targeted review of investment funds that hold substantially all of their assets in precious metals bullion. Several of the funds selected for review have exemptive relief from the concentration restriction in securities legislation to enable the funds to invest exclusively in bullion.

In order to understand how the funds and their managers responded to the recent market events, we asked about the asset flows in these funds and in bullion markets, as well as the impact of the market events on the premium and discount spread of bullion exchange-traded funds (ETFs). We also looked into how the fund manager assessed each fund's ability to liquidate bullion to meet redemptions in times of stress.

We continue to review and monitor developments in this area.

Accessibility of Continuous Disclosure Documents on Websites

We have recently observed that the display of Fund Facts documents and IRC Reports to Securityholders on the websites of certain fund managers does not comply with requirements set out in NI 81-101 and NI 81-107, respectively.

Subsection 2.3.1(2) of NI 81-101 requires a Fund Facts document posted to the website of the mutual fund or the mutual fund family to be displayed in a manner that would be considered 'prominent' to a reasonable person. With respect to IRC Reports to Securityholders, subsection 4.4(2) of NI 81-107 requires the IRC Report to Securityholders to be prominently displayed by the manager on the website of the fund, fund family or manager. Commentary 2 to subsection 4.4(2) of NI 81-107 notes staff's expectation that the IRC Report to Securityholders will be displayed in an easily visible location on the home page of the website of the investment fund, the investment fund family or the manager, as applicable.

We remind issuers of the requirements in securities legislation that specify where on a fund/fund family/manager's website certain disclosure documents, such as the Fund Facts and IRC Reports to Securityholders, should be posted with a view to making them accessible to the general public.

1.1.5 Notice of Correction – OSC Notice and Request for Comment – Chicago Mercantile Exchange Inc. – Application for Exemption from Recognition as a Clearing Agency

NOTICE OF CORRECTION
OSC NOTICE AND REQUEST FOR COMMENT
CHICAGO MERCANTILE EXCHANGE INC.
APPLICATION FOR EXEMPTION
FROM RECOGNITION AS A CLEARING AGENCY

There is a correction to the Notice and Request for Comment in Ontario Securities Bulletin (2013), 36 OSCB 5209 published on May 16, 2013. The date under C. Comment Process "June 16, 2012" should have appeared as "June 16, 2013". The corrected paragraph is reproduced below.

C. Comment Process

The Commission is publishing for public comment the Application and Draft Order. We are seeking comment on all aspects of the Application and Draft Order.

You are asked to provide your comments in writing, via e-mail and delivered on or before **June 16, 2013** addressed to the attention of the Secretary of the Commission, Ontario Securities Commission, 20 Queen Street West, Toronto, Ontario, M5H 3S8, e-mail: comments@osc.gov.on.ca.

1.1.6 Notice of Ministerial Approval of Consequential Amendments to Registration, Prospectus and Continuous Disclosure Rules Related to National Instrument 25-101 Designated Rating Organizations

NOTICE OF MINISTERIAL APPROVAL
OF CONSEQUENTIAL AMENDMENTS TO
REGISTRATION, PROSPECTUS AND
CONTINUOUS DISCLOSURE RULES RELATED TO
NATIONAL INSTRUMENT 25-101
DESIGNATED RATING ORGANIZATIONS

Ministerial approval of certain rules

On May 13, 2013, the Minister of Finance approved, pursuant to section 143.3 of the *Securities Act* (Ontario) (the **Act**) consequential amendments to the following instruments:

- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*
- Form 31-103F1 *Calculation of Excess Working Capital*
- Form 33-109F6 *Firm Registration*
- National Instrument 41-101 *General Prospectus Requirements*
- National Instrument 44-101 *Short Form Prospectus Distributions*
- Form 44-101F1 *Short Form Prospectus*
- National Instrument 44-102 *Shelf Distributions*
- National Instrument 45-106 *Prospectus and Registration Exemptions*
- National Instrument 51-102 *Continuous Disclosure Obligations*
- National Instrument 81-101 *Mutual Fund Prospectus Disclosure*
- National Instrument 81-102 *Mutual Funds*
- National Instrument 81-106 *Investment Fund Continuous Disclosure*

(collectively, the **Amendment Instruments**).

Notice of redundancy

In the course of the subsequent review of Schedule L-1 – Amendments to National Instrument 81-102 *Mutual Funds,* OSC staff have noticed that paragraph 2(g) should not have been included in the Schedule. This amendment is no longer necessary as a result of the revised definition of "money market fund" which came into force on October 30, 2012. There is no need, however, to take any corrective action in respect of this redundancy because, as a result of the prior amendment, paragraph 2(g) has no legal effect. This notice is simply for the information of stakeholders and in the interests of transparency.

Commission approval of related policies

In connection with this initiative, the Ontario Securities Commission adopted on March 12, 2013, pursuant to section 143.8 of the Act, changes to the following policies:

- Companion Policy 21-101CP *Marketplace Operation*
- Companion Policy 44-101CP *Short Form Prospectus Distributions*
- Companion Policy 44-102CP *Shelf Distributions*
- National Policy 51-201 Disclosure Standards

- Companion Policy 81-102CP Mutual Funds

(collectively with the Amendment Instruments, the **DRO Consequential Amendments**).

The DRO Consequential Amendments were published in the Bulletin on March 14, 2013 at (2013) 36 OSCB 2619 and have an effective date of **May 31, 2013.**

1.3 News Releases

1.3.1 OSC Announces Agenda for Roundtable Discussion of CSA Discussion Paper and Request for Comment 81-407 Mutual Fund Fees

FOR IMMEDIATE RELEASE
May 16, 2013

TORONTO – The Ontario Securities Commission (OSC) announced today the final agenda, discussion topics, and list of panellists for its roundtable on Friday, June 7, 2013, which will further explore and discuss the issues identified in CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees*. This initial roundtable will explore topics that reflect the major themes emerging from the comment letters received in response to the Discussion Paper and will help inform next steps on these issues, including the direction of further possible consultation.

Announced on March 19, 2013, the roundtable will take place from 9:00 a.m. to 1:00 p.m. on the 22nd floor of the OSC's offices, located at 20 Queen Street West, Toronto, Ontario.

The roundtable will feature three panels representing investors, various segments of the mutual fund industry and other financial industry stakeholders. As indicated previously, panellists have been selected based on comment letters submitted in response to the Discussion Paper. Panel topics include:

1. The role embedded compensation plays in access to advice for small retail investors in the Canadian market.
2. The nature and scope of the services received for trailing commissions.
3. The impact of current disclosure initiatives and whether regulatory action beyond disclosure is warranted at this time.

Panellists will each have an opportunity to provide brief opening remarks, which will then be followed by general discussion and questions from OSC Commissioners. Any interested parties wishing to attend the roundtable are asked to send an email with full contact details to: investmentfunds@osc.gov.on.ca to confirm their attendance. Space is limited. It is expected that a transcript will be posted to the OSC website following completion of the roundtable.

The agenda and schedule of panel participants is as follows

Time	Topic	Panellists
8:30 – 9:00 a.m.	**Arrival/Check-in**	
9:00 – 9:15 a.m.	**Introduction and Opening Remarks**	Mary Condon (*OSC Vice-Chair*) Sinan O. Akdeniz (*OSC Commissioner*) Deborah Leckman (*OSC Commissioner*)
9:15 – 10:15 a.m.	**Topic 1: The role embedded compensation plays in access to advice for small retail investors in the Canadian market**	Joanne De Laurentiis *(Investment Funds Institute of Canada*) Ermanno Pascutto (*Canadian Foundation for Advancement of Investor Rights*) Peter Intraligi (*Invesco Canada Ltd.*) John De Goey (*Burgeonvest Bick Securities*

Time	Topic	Panellists
		Limited)
10:15 – 11:15 a.m.	**Topic 2: Understanding the services received for trailing commissions**	Doug Coulter (*RBC Global Asset Management Inc.*) Atul Tiwari (*Vanguard Investments Canada Inc.*) Ken Kivenko (*Small Investor Protection Association*) Ed Skwarek (*Advocis – The Financial Advisors Association of Canada*)
11:15 – 11:45 a.m.	**Break**	
11:45 a.m. – 12:45 p.m.	**Topic 3: The impact of current disclosure initiatives and whether regulatory action beyond disclosure is warranted at this time**	Sian Burgess (*Fidelity Investments Canada ULC*) Robert Frances (*PEAK Financial Group Inc.*) Afsar Shah (*Sun Life Financial Investment Services (Canada) Inc.*) Representative from OSC Investor Advisory Panel
12:45 – 1:00 p.m.	**Closing**	

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1.3.2 Ming Chao Zhao Settles with the Ontario Securities Commission on Insider Trading Violations

FOR IMMEDIATE RELEASE
May 17, 2013

MING CHAO ZHAO SETTLES WITH THE
ONTARIO SECURITIES COMMISSION ON INSIDER TRADING VIOLATIONS

TORONTO – The Ontario Securities Commission today approved a settlement agreement reached between Staff of the Commission and Ming Chao Zhao, also known as Michael Zhao.

Zhao admitted that, between June 2010 and December 2011, he engaged in illegal insider trading, and has been ordered to pay an administrative penalty of $750,000, disgorge his profits of $416,719 and pay costs of $30,000.

Zhao was an Investment Banking Analyst at BMO Nesbitt Burns. As a result of his position at BMO, Zhao was in possession of undisclosed material information relating to five reporting issuers, specifically that they were involved in merger and acquisition transactions. He accessed the information about the transactions through a shared network drive.

Using an online discount brokerage account held by a family member under another name, Zhao directed the purchase of the securities of the five reporting issuers in advance of the public announcement of the merger and acquisition transactions. After the public announcement of the merger and acquisition transactions, Zhao directed the sale of the securities of the five reporting issuers to earn a profit of approximately $416,000.

Zhao's trading in the account was not disclosed to BMO contrary to its compliance policies.

Under the settlement agreement, subject to certain exceptions, Zhao is permanently prohibited from trading securities. He is permanently prohibited from becoming or acting as a registrant or as a director or officer of a registrant. He is also prohibited from becoming or acting as a director or officer of an issuer for ten years.

"Our Insider Trading and Market Abuse Team is establishing momentum in detecting and pursuing cases of illegal insider trading," said Tom Atkinson, Director of Enforcement at the Ontario Securities Commission. "We are pleased with the results so far and will continue to focus on cases where individuals misuse confidential information for their own personal gain".

A copy of the Order approving the Settlement Agreement with Zhao is available at www.osc.gov.on.ca.

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1.4 Notices from the Office of the Secretary

1.4.1 Onix International Inc. and Tyrone Constantine Phipps

FOR IMMEDIATE RELEASE
May 15, 2013

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

AND

IN THE MATTER OF
ONIX INTERNATIONAL INC. and
TYRONE CONSTANTINE PHIPPS

TORONTO – The Commission issued an Order in the above named matter which provides that (i) the hearing on the merits in this matter shall commence on September 5, 2013 at 10:00 a.m. at the offices of the Commission and shall continue on September 6, 9, 11, 12 and 13, 2013 or on such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary; and (ii) that a further confidential pre-hearing conference be held on July 16, 2013 at 2:30 p.m.

The pre-hearing conference will be *in camera*.

A copy of the Order dated May 13, 2013 is available at www.osc.gov.on.ca.

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JOHN P. STEVENSON
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1.4.2 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
May 15, 2013

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

AND

IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN,
ALBERT IP, ALFRED C.T. HUNG,GEORGE HO,
SIMON YEUNG and DAVID HORSLEY

TORONTO – The Commission issued an Order in the above named matter which provides that the pre-hearing conference in this matter be continued on July 19, 2013, at 9:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

The pre-hearing conference will be held *in camera*.

A copy of the Order dated May 13, 2013 is available at www.osc.gov.on.ca.

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1.4.3 The Juniper Fund Management Corporation et al.

FOR IMMEDIATE RELEASE
May 15, 2013

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

AND

IN THE MATTER OF
THE JUNIPER FUND MANAGEMENT CORPORATION, JUNIPER INCOME FUND, JUNIPER EQUITY GROWTH FUND AND
ROY BROWN (a.k.a. ROY BROWN-RODRIGUES)

TORONTO – The Commission issued an Order in the above named matter which provides that:

1. the June 14, 2013 sanctions and costs hearing date be vacated;

2. Staff shall file written sanctions and costs submissions by 4:30 p.m. on May 31, 2013; and

3. the parties shall appear before the Commission on July 4, 2013 at 10:00 a.m. so that Roy Brown can provide the Commission with an update on his efforts to retain counsel.

A copy of the Order dated May 15, 2013 is available at www.osc.gov.on.ca.

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1.4.4 Quadrexx Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
May 16, 2013

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

AND

IN THE MATTER OF
QUADREXX ASSET MANAGEMENT INC., QUADREXX SECURED ASSETS INC., OFFSHORE OIL VESSEL SUPPLY SERVICES LP, QUIBIK INCOME FUND AND QUIBIK OPPORTUNITIES FUND

TORONTO – The Commission issued an Order in the above named matter which provides that:

1. pursuant to paragraph 1 of subsection 127(1) of the Act that the registration of Quadrexx as a PM and as an IFM is suspended effective immediately;

2. pursuant to subsection 127(8) of the Act that the portion of the Temporary Order issued under paragraph 2 of subsection 127(1) that ordered all trading to cease in the securities of Quadrexx and Quadrexx Related Securities is extended to August 15, 2013, other than as may be required to facilitate the dissolutions or wind ups of Quadrexx and/or the Quadrexx Related Securities;

3. that the hearing to consider: (i) the need to further extend the Temporary Order; and (ii) for the Commission to receive an update on the wind ups or dissolutions of Quadrexx, OOVSS, QSA, CHWIP and HFI will proceed on August 14, 2013 at 10:00 a.m.

A copy of the Order dated May 15, 2013 is available at www.osc.gov.on.ca.

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1.4.5 Ming Chao Zhao

FOR IMMEDIATE RELEASE
May 17, 2013

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

AND

IN THE MATTER OF
MING CHAO ZHAO

TORONTO – Following a hearing held today, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Ming Chao Zhao

A copy of the Order dated May 17, 2013 and Settlement Agreement dated April 30, 2013 are available at www.osc.gov.on.ca.

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

AND

IN THE MATTER OF MING CHAO ZHAO
SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE COMMISSION
AND MING CHAO ZHAO

PART I - INTRODUCTION

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Ming Chao Zhao, also known as Michael Zhao, ("Zhao" or the "Respondent").

PART II - JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding to be commenced by a Notice of Hearing and a Statement of Allegations to be filed by Staff (the "Proceeding") against Zhao according to the terms and conditions set out in Part V of this Settlement Agreement. Zhao agrees to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III - AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, Zhao agrees with the facts set out in this Part of the Settlement Agreement.

(a) Overview

4. Between June 2010 and December 2011 (the "Relevant Period"), Zhao engaged in insider trading. Zhao was an Investment Banking Analyst at BMO Nesbitt Burns ("BMO"). He was in possession of undisclosed material information about Menu Foods Income Fund, ("Menu Foods"), Consolidated Thompson Iron Mines Ltd. ("Consolidated Thompson"), Forzani Group Ltd. ("Forzani"), Pacific Northern Gas Ltd. ("Pacific Northern") and Canmarc REIT ("Canmarc") (the "Five Reporting Issuers") as a result of his position at BMO.

5. The undisclosed material information about the Five Reporting Issuers was that they were involved in merger and acquisition ("M&A") transactions. BMO was involved in these M&A transactions as a financial adviser.

6. Zhao directed the purchase of the securities of the Five Reporting Issuers in advance of the public announcement of the M&A transactions in an online discount brokerage account with TD Waterhouse ("Waterhouse") held by a family member with a name other than Zhao (the "Family Account"). After the public announcement of the M&A transactions, Zhao directed the sale of the securities of the Five Reporting Issuers to earn a profit in the Family Account of approximately $416,000.

7. Zhao's trading in the Family Account was not disclosed to BMO, contrary to its compliance policies.

(b) Conduct contrary to the Act

8. As a result of his position at BMO, Zhao was a person in a special relationship to the Five Reporting Issuers. While a person in a special relationship with the Five Reporting Issuers, Zhao purchased securities of the Five Reporting Issuers with knowledge of undisclosed material information about the Five Reporting Issuers and thereby engaged in insider trading contrary to subsection 76(1) of the Act.

(c) The Respondent

9. Zhao is 28 years of age. He lives in Toronto. He was employed by BMO as an Investment Banking Analyst.

10. Zhao was hired on July 5, 2009, as an Investment Banking Analyst in the Media & Communication Group of the Investment & Corporate Banking division of BMO. His duties included the following:

(a) conducting financial analyses of companies, including comparable trading analysis, precedent transaction analysis, and pro-forma financial modelling;

(b) preparing proactive client pitches, including compiling data, assembling presentation materials, and conducting specific research to support valuation and rationale; and

(c) participating in strategic alternatives reviews for clients by applying capital markets knowledge.

(d) Trading in the Family Account

11. The trades in the Family Account occurred proximate to the merger announcements. For instance, the Family Account started accumulating the bulk of holdings in Consolidated Thompson on the day prior to the M&A announcements. The Family Account also bought Pacific Northern within a week, Canmarc within two weeks and accumulated Forzani shares within three weeks of the M&A announcements. The Family Account made its largest investment of $814,400 in Canmarc in advance of the public announcement of the M&A deal on November 28, 2011, shortly before Zhao left BMO.

(i) Menu Foods Income Fund

12. At 2:15 a.m. on August 9, 2010, Menu Foods announced that Simmons Pet Food, an affiliate of Simmons Foods, Inc. had entered into a definitive agreement to acquire Menu Foods for approximately $239 million, including assumption of existing debt. Immediately after the disposition of the Fund's assets, the units of the Fund would be redeemed for $4.80 per unit in cash.

13. On August 6, 2010, Menu Foods' unit price closed at $3.27.

14. On August 9, 2010, Menu Foods' unit price closed at $4.72.

15. Prior to the public announcement of the agreement that Simmons Pet Food would acquire Menu Foods, Zhao accessed the shared network drive at BMO and was aware of the transaction before it was announced. Between June 16, 2010 and July 22, 2010, Zhao had 24,000 units of Menu Foods purchased at a total cost of $86,549 in the Family Account at an average price of $3.61.

16. On August 9, 2010, the day of the takeover announcement, Zhao had the Family Account sell its entire 24,000 share position at an average price of $4.72 per unit.

17. The Family Account earned a profit of $26,720.

(ii) Consolidated Thompson Iron Mines Ltd.

18. At 4:41 p.m. (after market close) on January 11, 2011, Cliffs Natural Resources publicly announced that it had entered into a definitive arrangement agreement with Consolidated Thompson to acquire all of its shares in an all cash transaction valued at approximately $4.9 billion (including net debt), or $17.25/share.

19. On January 11, 2011, Consolidated Thompson closed at $13.38/share.

20. On January 12, 2011, Consolidated Thompson closed at $17.35/share.

21. Prior to the public announcement of the acquisition of Consolidated Thompson by Cliffs Natural Resources, Zhao accessed BMO's shared network drive and was aware of the pending transaction prior to its public announcement.

22. Between January 10, 2011 and January 11, 2011, Zhao had the Family Account purchase 16,500 shares at a total cost of $218,280 at an average price of $13.23.

23. On January 18, 2011 and January 24, 2011, Zhao had the Family Account sell 16,500 shares in Consolidated Thompson at an average price of $17.29/share.

24. The Family Account earned a profit of $66,944.

(iii) Forzani Group Limited

25. At 6:35 a.m. on May 9, 2011, the Forzani Group publicly announced that it would be acquired by Canadian Tire for $26.50/share in cash.

26. On May 6, 2011, Forzani's share price closed at $17.61/share.

27. On May 9, 2011, Forzani's share price closed at $26.25/share.

28. Prior to the public announcement of the acquisition of Forzani by Canadian Tire, Zhao accessed BMO's shared network drive and was aware of the pending acquisition before it was publicly announced. Between April 18, 2011, and May 6, 2011, Zhao had the Family Account purchase 11,500 shares at an average price of $18.18 per share.

29. On May 9, 2011, Zhao had the Family Account sell 6,500 shares of Forzani at an average price of $26.22/share.

30. On June 1, 2011, Zhao had the Family Account sell the remaining 5,000 shares of Forzani at an average price of $26.41/share.

31. The Family Account earned a profit of $93,339.

(iv) Pacific Northern Gas Ltd

32. At 7:30 a.m. on Monday, October 31, 2011, AltaGas publicly announced that it had entered into a definitive agreement with Pacific Northern pursuant to which AltaGas would indirectly acquire all of the issued and outstanding common shares of Pacific Northern for $36.75 cash per share.

33. On October 28, 2011, Pacific Northern's stock price closed at $30.50.

34. On October 31, 2011, Pacific Northern's stock price closed at $36.67.

35. Prior to the public announcement of the acquisition of Pacific Northern by AltaGas, Zhao accessed BMO's shared network drive and was aware of the pending acquisition before it was publicly announced. Between October 25, 2011 and October 28, 2011, Zhao had the Family Account purchase 7,500 shares of Pacific Northern at a total cost of $222,296 at an average price of $29.64/share.

36. On November 4, 2011, Zhao had the Family Account sell 7,400 shares of Pacific Northern and sell its remaining 100 shares of Pacific Northern on November 7, 2011.

37. The Family Account earned a profit of $52,935.

(v) Canmarc Real Estate Investment Trust

38. At 6:30 a.m. on November 28, 2011, Cominar publicly announced its intention to acquire all units of Canmarc in an all-cash offer of $15.30/unit. Additionally, Cominar purchased by way of private placement, a total of 3,099,300 Canmarc units, representing 5.7% of the total issued and outstanding units.

39. On November 25, 2011, Canmarc's unit price closed at $13.28/unit.

40. On November 28, 2011, Canmarc's unit price closed at $15.80/unit.

41. Prior to the public announcement of the acquisition of Canmarc by Cominar, Zhao accessed BMO's shared network drive and was aware of the acquisition before it was publicly announced. Between November 11, 2011 and November 21, 2011, Zhao had the Family Account purchase 60,000 units of Canmarc at a total cost of $814,400 at an average price of $13.57/unit. On January 26, 2012, Zhao had the Family Account sell its total position of 60,000 Canmarc units at an average price of $16.52.

42. The Family Account earned a profit of $176,781.

(e) Trading in the Family Account was directed by Zhao

43. All the trades in the Family Account were made by Zhao or at the direction of Zhao.

(f) Materiality of BMO information

44. BMO was retained as financial advisers on each of the five M&A deals.

45. At the time that the securities of the Five Reporting Issuers were purchased in the Family Account, BMO was in possession of material information about the Five Reporting Issuers. The material information had not been generally disclosed. Indeed, it was highly confidential.

(g) Zhao's access to undisclosed material information

46. At the time that the securities of the Five Reporting Issuers were purchased in the Family Account, Zhao had access to material undisclosed information about the Five Reporting Issuers. As a result of his position, he had access to a shared computer network drive where confidential documents respecting the relevant M&A deals were stored. He accessed relevant documents on the shared network drive in advance of trading of the securities of Menu Foods, Consolidated Thompson, Forzani, Pacific Northern, and Canmarc.

PART IV - CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

47. By purchasing securities of the Five Reporting Issuers while possessed with knowledge of undisclosed material information about the Five Reporting Issuers and while in a special relationship with the Five Reporting Issuers, Zhao engaged in insider trading contrary to subsection 76(1) of the Act and thereby acted contrary to the public interest.

PART V - TERMS OF SETTLEMENT

48. The Respondent agrees to the terms of settlement listed below.

49. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:

(a) the Settlement Agreement is approved;

(b) trading in any securities by the Respondent shall cease permanently, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(c) the acquisition of any securities by the Respondent is prohibited permanently, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the Income Tax Act (Canada)) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(d) notwithstanding paragraphs (b) and (c) above, Zhao shall be permitted to have 30 calendar days from the date of the order to effect liquidating trades only of any non-mutual fund securities that he owns in BMO Investorline accounts # 22043142, 22429619, and 21640397 and he must give a copy of this Order to the Chief Compliance Officer of BMO Investorline and provide notice to Staff of the Commission upon completion of his liquidating trades;

(e) any exemptions contained in Ontario securities law do not apply to the Respondent permanently, except for the purpose of trades described in paragraphs (b) and (c) set forth above in this Order;

(f) the Respondent is reprimanded;

(g) the Respondent resign any position he holds as a director or officer of any issuer;

(h) the Respondent is prohibited from becoming or acting as a director or officer of any issuer for ten years;

(i) the Respondent resign any position he holds as a director of a registrant;

(j) the Respondent is prohibited from becoming or acting as a director of a registrant permanently;

(k) the Respondent resign any position he holds as a director or officer of an investment fund manager;

(l) the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager permanently;

(m) the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or promoter permanently;

(n) the Respondent pay an administrative penalty of $750,000 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties;

(o) the Respondent disgorge to the Commission the amount of $416,719 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties; and

(p) the Respondent pay the costs of the Commission's investigation in the amount of $30,000.

50. The Respondent agrees to make a payment of $350,000 by certified cheque upon the date the Commission approves this Settlement Agreement, which will satisfy part of the amount of $416, 719 ordered to be disgorged in paragraph 49(o).

51. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 49 (b) to (e) and (g) to (l) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

PART VI - STAFF COMMITMENT

52. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 53 below.

53. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

54. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission to be scheduled on a date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

55. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

56. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

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

58. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

59. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

(a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and

(b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

60. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or are required by law to disclose the terms.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

61. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

62. A fax copy of any signature will be treated as an original signature.

Dated this “30th” day of “April”, 2013

“Ming Chao Zhao”

“Ying Ting Feng”
Witness

“Tom Atkinson”
Director
Enforcement Branch

Schedule "A"

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

AND

IN THE MATTER OF MING CHAO ZHAO

ORDER
(Pursuant to subsection 127(1) and section 127.1 of the Securities Act
and Rule 12 of the Commission Rules of Procedure)

WHEREAS on May 2, 2013, 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 Staff of the Commission ("Staff") filed a Statement of Allegations dated May 2, 2013 (the "Statement of Allegations") in respect of Ming Chao Zhao (the "Respondent");

AND WHEREAS the Respondent and Staff entered into a Settlement Agreement dated April 30, 2013, (the "Settlement Agreement") in which they agreed to a settlement in relation to the matters set out in the Notice of Hearing and the Statement of Allegations subject to the approval of the Commission;

AND WHEREAS the Commission has reviewed the Notice of Hearing, the Statement of Allegations and the Settlement Agreement and has heard submissions from counsel for Staff and counsel for the Respondent;

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 subsection 127(1)2 of the Act, trading in any securities by the Respondent shall cease permanently, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(c) pursuant to subsection 127(1)2.1 of the Act, the acquisition of any securities by the Respondent is prohibited permanently, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(d) notwithstanding paragraphs (b) and (c) above, Zhao shall be permitted to have 30 calendar days from the date of this Order to effect liquidating trades only of any non-mutual fund securities that he owns in BMO Investorline accounts # 22043142, 22429619, and 21640397 and he must give a copy of this Order to the Chief Compliance Officer of BMO Investorline and provide notice to Staff of the Commission upon completion of his liquidating trades;

(e) pursuant to subsection 127(1)3 of the Act, any exemptions contained in Ontario securities law do not apply to the Respondent permanently, except for the purpose of trades described in paragraphs (b) and (c) set forth above in this Order;

(f) pursuant to subsection 127(1)6 of the Act, the Respondent is reprimanded;

(g) pursuant to subsection 127(1)7 of the Act, the Respondent resign any position he holds as a director or as an officer of any issuer;

(h) pursuant to subsection 127(1)8 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of any issuer for ten years;

(i) pursuant to subsection 127(1)8.1 of the Act, the Respondent resign any position he holds as a director or as an officer of a registrant;

(j) pursuant to subsection 127(1)8.2 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of a registrant permanently;

(k) pursuant to subsection 127(1)8.3 of the Act, the Respondent resign any position he holds as a director or as an officer of an investment fund manager permanently;

(l) pursuant to subsection 127(1)8.4 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of an investment fund manager permanently;

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

(n) pursuant to subsection 127(1)9 of the Act, the Respondent pay an administrative penalty of $750,000 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties;

(o) pursuant to subsection 127(1)10 of the Act, the Respondent disgorge to the Commission the amount of $416,719 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties, of which $350,000 shall be paid by the Respondent upon the making of this Order; and

(p) pursuant to subsection 127.1(1) of the Act, the Respondent pay the costs of the Commission's investigation in the amount of $30,000.

DATED at Toronto this____ day of _____, 2013.

"Edward P. Kerwin"

1.4.6 Pro-Financial Asset Management Inc.

FOR IMMEDIATE RELEASE
May 17, 2013

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

AND

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.

TORONTO – The Commission issued a Temporary Order pursuant to subsections 127(1) and (5) in the above named matter.

A copy of the Temporary Order dated May 17, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

1.4.7 Moncasa Capital Corporation and John Frederick Collins

FOR IMMEDIATE RELEASE
May 21, 2013

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

AND

IN THE MATTER OF
MONCASA CAPITAL CORPORATION
AND JOHN FREDERICK COLLINS

TORONTO – Following the hearing on the merits in the above noted matter, the Commission issued its Reasons and Decision.

The Commission also issued an Order which provides that (1) Staff shall serve and file written submissions on sanctions and costs by 4:00 p.m. on June 7, 2013; (2) The Respondents shall serve and file responding written submissions on sanctions and costs by 4:00 p.m. on June 21, 2013; (3) Staff shall serve and file reply written submissions on sanctions and costs (if any) by 4:00 p.m. on June 28, 2013; (4) the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, ON, on July 11, 2013, at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and (5) upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party, and such party is not entitled to any further notice of the proceeding.

A copy of the Reasons and Decision and the Order dated May 17, 2013 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Sun Life Global Investments (Canada) Inc. and Sun Life Dynamic Equity Income Fund

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual fund subject to NI 81-102, to invest in up to 20% of its NAV in standardized futures the underlying interest of which is oil or natural gas, for hedging purposes only – relief conditions include that the purchase of a standardized future be 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.

Applicable Legislative Provisions

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

April 9, 2013

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
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(the Filer)

AND

IN THE MATTER OF
SUN LIFE DYNAMIC EQUITY INCOME FUND
(the Equity Income Fund)

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 an exemption from section 2.3(h) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to permit the Equity Income Fund to invest in standardized futures (as such term is defined in NI 81-102) with underlying interests in sweet crude oil or natural gas (**Oil and Gas Contracts**) 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 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, Newfoundland and Labrador, Prince Edward Island, Yukon, Northwest Territories and Nunavut with respect to the relief sought.

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

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

The Filer and the Funds

1. The Filer is a corporation incorporated under the laws of Canada with its head office in Toronto, Ontario.

2. The Filer is registered as a commodity trading manager, investment fund manager and portfolio manager in Ontario.

3. The Filer acts as the investment fund manager and portfolio manager of the Equity Income Fund. To the extent that the Filer appoints a sub-advisor for the Equity Income Fund, the sub-advisor will be registered as a commodity trading manager in Ontario or relying on an exemption therefrom.

4. The Equity Income Fund is: (a) an open-ended mutual fund established under the laws of Ontario, (b) a reporting issuer under the laws of all provinces and territories of Canada, and (c) governed by the provisions of NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.

5. Securities of the Equity Income Fund are qualified for distribution in all of the provinces and territories of Canada under a simplified prospectus and annual information form prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and filed with and receipted by the securities regulators in the applicable jurisdictions.

6. Neither the Filer nor the Equity Income Fund is in default of securities legislation in any of the provinces or territories of Canada.

7. The investment objective for the Equity Income Fund is to seek to achieve income and long-term capital growth primarily by investing directly in equity securities that pay a dividend or distribution, or indirectly by investing in mutual funds (including exchange-traded funds) that invest in such securities.

8. The investment strategies of the Equity Income Fund have no restrictions on market capitalization, industry sector or geographic mix. While the Equity Income Fund initially seeks to achieve its investment objective by investing all or substantially all of its assets in Dynamic Equity Income Fund (the **Dynamic Underlying Fund**), a mutual fund that is currently managed by GCIC Ltd., the Equity Income Fund is permitted by its investment objective to invest in securities directly and anticipates doing so once the portfolio has reached sufficient scale.

9. When the Equity Income Fund adopts the strategy of investing in securities directly, the Equity Income Fund may directly invest in securities of issuers in the oil and gas sector. Accordingly, the Filer has determined that it would be in the best interest of the Equity Income Fund to have the ability to invest in Oil and Gas Contracts traded on the ICE Futures Europe (**ICE Europe**) and New York Mercantile Exchange (**NYMEX**) for hedging purposes in order to reduce the volatility that can result from the changing prices of the securities of such oil and gas issuers. Until the Equity Income Fund adopts the strategy of investing in securities directly, it will not be transacting in Oil and Gas Contracts for hedging purposes.

10. When the Equity Income Fund invests in Oil and Gas Contracts, the Filer proposes to trade such standardized futures contracts for cash or an offsetting contract to satisfy the obligations in the Oil and Gas Contracts.

11. The Filer has ongoing compliance monitoring in place to ensure that the Equity Income Fund's long positions in oil and gas securities match the Equity Income Fund's hedge positions in oil and gas standardized futures.

12. The Filer has ongoing monitoring and compliance procedures in place to ensure that there is an appropriate correlation between movements in the price of oil and gas commodities and the share price of related oil and gas securities held within the Equity Income Fund's portfolio, and that any hedging is carried out in accordance with the requirements of NI 81-102.

13. The Filer believes that the Oil and Gas Contracts markets on the 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 the Equity Income Fund will invest in Oil and Gas Contracts only if:

1. the purchases, uses and sales of Oil and Gas Contracts are made in accordance with the provisions otherwise relating to the use of specified derivatives for hedging purposes in NI 81-102 and the related disclosure otherwise required in National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and National Instrument 81-106 *Investment Fund Continuous Disclosure*;

2. an Oil and Gas Contract will be traded only for cash or an offsetting standardized futures contract to satisfy the obligations under the Oil and Gas Contract and will be sold at least one day prior to the date on which delivery of the underlying commodity is due under the Oil and Gas Contract;

3. the purchase of an Oil and Gas Contract will be effected through ICE Europe or NYMEX;

4. the Equity Income Fund will not purchase an Oil and Gas Contract for hedging purposes if, immediately following the purchase, the aggregate of such investments would exceed or represent greater than 20% of the Equity Income Fund's net asset value;

5. the Equity Income Fund will keep proper books and records of all purchases and sales of Oil and Gas Contracts;

6. the prospectus of the Equity Income Fund discloses:

    (a) that the Equity Income Fund may invest in standardized futures with underlying interests in oil and gas for hedging purposes, provided that the aggregate of such investments would not exceed or represent greater than 20% of the Equity Income Fund's net asset value;

    (b) the risks associated with the investments described in (a); and

    (c) that the Equity Income Fund has obtained relief to invest in Oil and Gas Contracts.

'Vera Nunes'
Manager, Investment Funds

2.1.2 Sun Life Global Investments (Canada) Inc. and the Funds defined below

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from sections 2.3(f), 2.3(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 – Mutual Funds to permit mutual fund to invest in a) silver, and b) up to 10% of net asset value in leveraged ETFs, inverse ETFs, gold ETFs, silver ETFs, leveraged gold ETFs and leveraged silver ETFs traded on Canadian or US stock exchanges, subject to a maximum of 10% of the Fund's net asset value exposed to gold and silver.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(f), 2.3(h), 2.5(2)(a), 2.5(2)(c), 19.1.

January 14, 2013

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
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(the Filer)

AND

IN THE MATTER OF
THE FUNDS (as defined below)

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 an exemption:

(a) from sections 2.3(f) and 2.3(h) of NI 81-102 (**Silver Exemption**) to permit each Fund to:

(i) purchase and hold silver;

(ii) purchase and hold a certificate that represents silver that is:

- available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;
- of a minimum fineness of 999 parts per 1000;
- held in Canada;
- in the form of either bars or wafers; and
- 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 province or territory of Canada

(**Permitted Silver Certificates**); and

(iii) purchase, sell or use a specified derivative, the underlying interest of which is silver (**Silver Derivatives**)

(silver, Permitted Silver Certificates and Silver Derivatives are collectively hereinafter referred to as **Silver**);

and

(b) from sections 2.3(h), 2.5(2)(a) and 2.5(2)(c) of NI 81-102 (**ETF Exemption**) to permit each Fund to purchase and hold securities of:

(i) exchange-traded funds (**ETFs**) that seek to provide daily results that replicate the daily performance of a specified widely-quoted market index (the ETF's **Underlying Index**) by a multiple of 200%, by an inverse multiple of 200% or an inverse multiple of 100% (**Inverse or Leveraged ETFs**);

(ii) ETFs that hold or seek to replicate the performance of gold, permitted gold certificates or specified derivatives of which the underlying interest is gold or permitted gold certificates on an unlevered basis (**Gold ETFs**);

(iii) ETFs that hold or seek to replicate the performance of silver, permitted silver certificates or specified derivatives of which the underlying interest is silver or permitted silver certificates on an unlevered basis (**Silver ETFs**);

(iv) Gold ETFs that are also Inverse or Leveraged ETFs, by a multiple of up to 200% (**Leveraged Gold ETFs**); and

(v) Silver ETFs that are also Inverse or Leveraged ETFs, by a multiple of up to 200% (**Leveraged Silver ETFs**).

(Inverse or Leveraged ETFs, Gold ETFs, Silver ETFs, Leveraged Gold ETFs and Leveraged Silver ETFs are collectively referred to as the **Underlying ETFs**),

(the Silver Exemption and the ETF Exemption are collectively referred to as 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 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, Newfoundland and Labrador, Prince Edward Island, Yukon, Northwest Territories and Nunavut with respect to the relief sought.

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. The following additional terms shall have the following meanings:

Funds means the existing mutual funds (the **Existing Funds**) or any future mutual funds (the **Future Funds**) managed by the Filer that are subject to NI 81-102, other than a Fund that is a "money market fund" as defined in NI 81-102, and any one of them may be referred to as a Fund.

NI 81-102 means National Instrument 81-102 *Mutual Funds*.

Gold and Silver Products means gold or silver, permitted gold certificates, Permitted Silver Certificates, investments in Gold ETFs, Silver ETFs, Leveraged Gold ETFs, Leveraged Silver ETFs, and investments in specified derivatives the underlying interest of which is gold or silver.

Representations

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

The Filer and the Funds

1. The Filer is a corporation incorporated under the laws of Canada with its head office in Toronto, Ontario.

2. The Filer is registered as a commodity trading manager, investment fund manager and portfolio manager in Ontario.

3. The Filer acts, or will act, as the investment fund manager of each of the Funds.

4. Each Existing Fund is, and each Future Fund will be: (a) an open-ended mutual fund established under the laws of Canada or a province or territory of Canada, (b) a reporting issuer under the laws of some or all provinces and territories of Canada, and (c) governed by the provisions of NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.

5. Securities of each Existing Fund are, and securities of each Future Fund will be, qualified for distribution in some or all of the provinces and territories of Canada under a simplified prospectus and annual information form prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) and filed with and receipted by the securities regulators in the applicable jurisdiction(s).

6. Neither the Filer nor the Existing Funds are in default of securities legislation in any of the provinces or territories of Canada.

Investments in Silver

7. In addition to investing in gold, the Funds wish to have the ability to invest in Silver.

8. A Fund will only invest in Silver in accordance with its investment objectives and investment strategies.

9. Permitting each Fund to invest in Silver will afford the Fund additional flexibility to increase gains in certain market conditions, which may otherwise cause the Fund to have significant cash positions and therefore deter from its ability to achieve its investment objective.

10. The Filer believes that the market in silver is highly liquid, and there are no liquidity concerns with permitting a Fund to invest, directly or through permitted derivatives or ETFs, up to 10% in total of its net asset value in silver.

11. The Filer believes that the potential volatility or speculative nature of Silver is no greater than that of gold, or of equity securities.

12. An investment by a Fund in Silver will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

13. Any investment by a Fund in Silver will be made in compliance with the custodian requirements in Part 6 of NI 81-102 or pursuant to exemptive relief therefrom.

14. But for the Silver Exemption, paragraph 2.3(f) of NI 81-102 would prohibit an investment by a Fund in Silver, because a Fund is prohibited from purchasing a physical commodity other than gold or permitted gold certificates.

15. But for the Silver Exemption, paragraph 2.3(h) of NI 81-102 would prohibit an investment by a Fund in Silver because a Fund is prohibited from purchasing, selling or using a specified derivative the underlying interest of which is a physical commodity other than gold or a specified derivative of which the underlying interest is a physical commodity other than gold.

16. If an investment in Gold and Silver Products represents a material change for any Existing Fund, the Filer will comply with the material change reporting obligations for that Fund.

Investments in Underlying ETFs

17. In addition to investing in securities of ETFs that qualify as index participation units as defined in NI 81-102 (**IPUs**), the Funds wish to invest in the Underlying ETFs, whose securities are not IPUs.

18. A Fund will only invest in Underlying ETFs in accordance with its investment objectives and investment strategies.

19. The amount of loss that can result from an investment by a Fund in an Underlying ETF will be limited to the amount invested by the Fund in securities of the Underlying ETF.

20. To obtain exposure to gold or silver indirectly, the Funds wish to have the ability to use specified derivatives the underlying interest of which is gold or silver, and invest in Gold ETFs, Silver ETFs, Leveraged Gold ETFs and

Leveraged Silver ETFs, as these investments may provide a more efficient way to obtain exposure to gold or silver, as applicable.

21. Each Inverse or Leveraged ETF will be rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed -100% or +/-200%, as the case may be, of the corresponding daily performance of its Underlying Index.

22. Each Leveraged Gold ETF and Leveraged Silver ETF will be rebalanced daily to ensure that its performance and exposure to its underlying gold or silver interest will not exceed -100% or +/-200%, as the case may be, of the corresponding daily performance of the underlying gold or silver interest, as applicable.

23. An investment by a Fund in securities of an Underlying ETF will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

24. The Underlying ETFs and Silver are attractive investments for the Funds, as they provide an efficient and cost effective means of achieving diversification and exposure.

25. But for the ETF Exemption, paragraph 2.5(2)(a) of NI 81-102 would prohibit a Fund from purchasing or holding a security of an Underlying ETF, because the Underlying ETFs are not subject to both NI 81-102 and National Instrument 81-101.

26. But for the ETF Exemption, paragraph 2.5(2)(c) of NI 81-102 would prohibit a Fund from purchasing or holding securities of some Underlying ETFs, because some Underlying ETFs will not be qualified for distribution in the local jurisdiction.

27. The Filer is not currently related to any Underlying ETF, is not the manager of an Underlying ETF and does not currently expect to be so related in the near future.

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:

1. A Fund will invest in Silver only if:

   (a) the silver certificates that a Fund invests in are Permitted Silver Certificates;

   (b) in determining a Fund's compliance with the concentration restriction in section 2.1 of NI 81-102, the Fund will not invest in gold, silver, Permitted Silver Certificates, permitted gold certificates or derivatives the underlying interest of which is either silver or gold, if immediately after giving effect to the transaction, in the aggregate such investments would exceed 10% of the Fund's net asset value; and

   (c) the prospectus of each Fund that intends to rely on the Silver Exemption discloses, or will disclose the next time it is renewed, (i) in the Investment Strategy section of the prospectus, the fact that the Fund has obtained relief to invest in Silver, and (ii) to the extent applicable, the risks associated with such an investment.

2. A Fund will invest in Underlying ETFs only if:

   (a) the investment by a Fund in securities of an Underlying ETF is in accordance with the fundamental investment objective of the Fund;

   (b) the Funds do not short sell securities of an Underlying ETF;

   (c) the securities of the Underlying ETFs are traded on a stock exchange in Canada or the United States;

   (d) a Fund may not purchase securities of an Underlying ETF if, immediately after the purchase, more than 10% of the Fund's net asset value would consist of securities of the Underlying ETFs;

   (e) if a Fund engages in short selling, the Fund does not purchase securities of an Inverse or Leveraged ETF that tracks the inverse of its Underlying Index by no more than 200% (a **Bear ETF**) or sell any securities short if,

immediately after the transaction, the aggregate market value of (i) all securities sold short by the Fund, and (ii) all securities of Bear ETFs held by the Fund, would exceed 20% of the Fund's net asset value;

(f) each Fund that intends to rely on the ETF Exemption will not purchase Gold and Silver Products if, immediately after the transaction, more than 10% of the Fund's net asset value would consist of Gold and Silver Products;

(g) each Fund that intends to rely on the ETF Exemption will not purchase Gold and Silver Products if, immediately after the transaction, the market value exposure to gold or silver through the Gold and Silver Products is more than 10% of the Fund's net asset value;

(h) the securities of the Underlying ETFs are treated as specified derivatives for the purposes of Part 2 of NI 81-102; and

(i) the prospectus of each Fund that intends to rely on the ETF Exemption discloses, or will disclose the next time it is renewed, (i) in the Investment Strategy section of the prospectus, the fact that the Fund has obtained relief to invest in Inverse or Leveraged ETFs, Gold ETFs, Silver ETFs, Leveraged Gold ETFs or Leveraged Silver ETFs, as appropriate, and (ii) to the extent applicable, the risks associated with such an investment.

"Vera Nunes"
Manager, Investment Funds
Ontario Securities Commission

2.1.3 Eloqua, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer under applicable securities laws – Issuer has fewer than 15 beneficial securityholders in Ontario –requested relief granted – section 1(10)(a)(ii) of the Securities Act (Ontario).

Applicable Legislative Provisions

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

May 17, 2013

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, ALBERTA, SASKATCHEWAN,
MANITOBA, NOVA SCOTIA, NEW BRUNSWICK
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
ELOQUA, 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) that the Filer be deemed to cease to be reporting issuer in the Jurisdictions (the Exemptive Relief 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 Interpretation* 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 laws of the State of Delaware and prior to the Merger (as defined below) had an address in the Province of Ontario located at 553 Richmond Street West, Suite 214, Toronto, Ontario;

2. the Filer is a reporting issuer in each of the Jurisdictions;

3. no securities of the Filer, including debt securities, are listed, traded or quoted in Canada or another country on a "marketplace" as defined in National Instrument 21-101 – *Marketplace Operation* ("**NI 21-101**") or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported and the Filer does not intend to have any of its securities listed, traded or quoted on such a marketplace in Canada or any other jurisdiction;

4. on February 8, 2013, the Filer merged with Esperanza Acquisition Corporation, a wholly owned subsidiary of OC Acquisition LLC which is an indirectly wholly owned subsidiary of Oracle Corporation ("**Oracle**"), and the Filer continued as the surviving corporation and as an indirect wholly owned subsidiary of Oracle (the "**Merger**");

5. as a result of the Merger, stockholders of the Filer received U.S.$23.50 for each share of common stock of the Filer and all of such shares have been cancelled, all options to purchase shares of the Filer's common stock and all warrants to purchase shares of the Filer's common stock either received a cash payment and ceased to be outstanding or pursuant to the terms thereof became exercisable for common stock of Oracle;

6. as a result of the Merger all of the securities of the Filer are held by Oracle. The outstanding securities of the Filer, including debt securities, are now beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total worldwide;

7. the Filer is applying for a decision that it is not a reporting issuer in all of the Jurisdictions;

8. The British Columbia Securities Commission granted the Filer non-reporting status in British Columbia effective March 1, 2013 pursuant to

British Columbia Instrument 11-502 – *Voluntary Surrender of Reporting Issuer Status;*

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

10. the Filer is not in default of any requirement of the securities legislation in any of the Jurisdictions except for the obligation to file its annual financial statements for the period ended December 31, 2012 and its management discussion and analysis in respect of such financial statements, 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,* all of which became due on April 1, 2013; and

11. the Filer, upon the granting of the Exemptive Relief 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 Exemptive Relief Sought is granted.

"James Carnwath"
Commissioner
Ontario Securities Commission

"Christopher Portner"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Tim Hortons Inc. – s. 104(2)(c)

Headnote

Clause 104(2)(c) – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 1,620,000 of its common shares from one or more of its shareholders – due to discounted purchase price, proposed purchases cannot be made through TSX trading system – but for the fact that the proposed purchases cannot be made through the facilities of the TSX, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Securities Act and in accordance with the TSX rules governing normal course issuer bid purchases – no adverse economic impact on or prejudice to issuer or public shareholders – proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the issuer not purchase more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7, 104(2)(c).

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

AND

IN THE MATTER OF
TIM HORTONS INC.

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of Tim Hortons Inc. (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to clause 104(2)(c) of the *Securities Act (*Ontario) (the "**Act**") exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and 97 to 98.7, inclusive, of the Act (the "**Issuer Bid Requirements**") in connection with the proposed purchases (the "**Proposed Purchases**") by the Issuer of up to 1,620,000 common shares of the Issuer (the "**Subject Shares**") in one or more tranches, from one or both of BMO Nesbitt Burns Inc. and Royal Bank of Canada (each, a "**Selling Shareholder**" and collectively, the "**Selling Shareholders**");

AND UPON considering the Application and the recommendation of staff of the Commission;

AND UPON the Issuer (and each Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 11, 22, 23 and 24 as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act*.

2. The registered and principal business office of the Issuer is 874 Sinclair Road, Oakville, Ontario, L6K 2Y1.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and its common shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange (the "**NYSE**") under the symbol "THI". The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The Issuer's authorized share capital consists of an unlimited number of common shares (each, a "**Common Share**") of which approximately 153,404,839 are issued and outstanding as of February 12, 2013.

5. The corporate headquarters of each Selling Shareholder is located in the Province of Ontario.

6. Each Selling Shareholder has advised the Issuer that it does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. Each of BMO Nesbitt Burns Inc. and Royal Bank of Canada has advised the Issuer that it is the beneficial owner of at least 1,270,000 Common Shares and 350,000 Common Shares, respectively, and that the Subject Shares were not

acquired by the Selling Shareholder in anticipation of resale pursuant to private agreements under an issuer bid exemption order by a securities regulatory authority ("**Off-Exchange Block Purchase**").

8. Each Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. Each Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**").

9. Pursuant to a Notice of Intention to make a Normal Course Issuer Bid (the "**Notice**") accepted by the TSX effective February 19, 2013, the Issuer announced on February 21, 2013 a normal course issuer bid (its "**Normal Course Issuer Bid**") for up to $250 million in Common Shares, not to exceed the regulatory maximum of 15,239,531 Common Shares, representing 10% of the public float as of February 14, 2013, in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX NCIB Rules**").

10. In accordance with the Notice, the Normal Course Issuer Bid will be conducted through the facilities of the TSX and purchases may also be made on the NYSE or alternative trading systems, if eligible, or by such other means as may be permitted by the TSX and/or the NYSE, including pre-arranged crosses, exempt offers, private agreements under an issuer bid exemption order issued by a securities regulatory authority and/or block purchases in accordance with section 629(1)7 of the TSX NCIB Rules.

11. The Issuer and one or more Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an "**Agreement**"), pursuant to which the Issuer will agree to acquire the Subject Shares from the Selling Shareholder by one or more purchases, each occurring prior to May 31, 2013 (each such purchase, a "**Proposed Purchase**") for a purchase price (each, a "**Purchase Price**") that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase.

12. The Subject Shares acquired under the Proposed Purchases will constitute a "block", as that term is defined in section 628 of the TSX NCIB Rules.

13. The purchases of the Subject Shares by the Issuer pursuant to each Agreement will constitute an "issuer bid" for purposes of the Act, to which the Issuer Bid Requirements would apply.

14. Because the Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares, at the time of each Proposed Purchase, each Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholders in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

15. But for the fact that the Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares, at the time of each Proposed Purchase, the Issuer could otherwise acquire the Subject Shares as a "block purchase" (a "**Block Purchase**") in accordance with the block purchase exception in section 629(1)(7) of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements available pursuant to section 101.2(1) of the Act.

16. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

17. For each Proposed Purchase, the Issuer will be able to acquire the Subject Shares from a Selling Shareholder in reliance upon the exemption from the dealer registration requirements of the Act that is available as a result of the combined effect of section 2.16 of NI 45-106 and section 4.1(a) of Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

18. Management of the Issuer is of the view that the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase the Subject Shares under the Normal Course Issuer Bid through the facilities of the TSX and management is of the view that this is an appropriate use of funds to increase shareholder value.

19. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and it will not materially affect control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other securityholders of the Issuer to otherwise sell Common Shares in the open market at the prevailing market price. The Proposed Purchases will be carried out with a minimum cost to the Issuer.

20. To the best of the Issuer's knowledge, as of February 12, 2013, the "public float" for the Issuer's Common Shares represented approximately 99.34% of all issued and outstanding Common Shares for purposes of the TSX NCIB Rules.

21. The market for the Common Shares is a "liquid market" within the meaning of section 1.2 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*.

22. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

23. At the time that each Agreement is entered into by the Issuer and BMO Nesbitt Burns Inc. neither the Issuer nor the Trading Products Group of, nor personnel of, BMO Nesbitt Burns Inc. that have negotiated the Agreement or have made or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares will be aware of any undisclosed "material change" or any undisclosed "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

24. At the time that each Agreement is entered into by the Issuer and Royal Bank of Canada neither the Issuer nor Royal Bank of Canada will be aware of any undisclosed "material change" or any undisclosed "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

AND UPON the Commission being satisfied to do so would not be prejudicial to the public interest;

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with the Proposed Purchases, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX NCIB Rules during the calendar week that it completes each Proposed Purchase and may not make any further purchases under its Normal Course Issuer Bid for the remainder of that calendar day on which it completes each Proposed Purchase;

(c) the Purchase Price for each Proposed Purchase is not higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Issuer's Normal Course Issuer Bid in accordance with the Notice and TSX NCIB Rules, as applicable;

(e) immediately following each Proposed Purchase of the Subject Shares from a Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) the Issuer will issue a press release in connection with the Proposed Purchases and where such Proposed Purchases are made in tranches, in advance of the first tranche with each Selling Shareholder;

(g) at the time that each Agreement is entered into by the Issuer and BMO Nesbitt Burns Inc. neither the Issuer nor the Trading Products Group of, nor personnel of, BMO Nesbitt Burns Inc. that have negotiated the Agreement or have made or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares will be aware of any undisclosed "material change" or any undisclosed "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(h) at the time that each Agreement is entered into by the Issuer and Royal Bank of Canada neither the Issuer nor Royal Bank of Canada will be aware of any undisclosed "material change" or any undisclosed "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed; and

(i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid.

DATED at Toronto this 1st day of March, 2013.

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

"Judith Robertson
Commissioner
Ontario Securities Commission

2.2.2 Onix International Inc. and Tyrone Constantine Phipps

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

AND

IN THE MATTER OF
ONIX INTERNATIONAL INC. and
TYRONE CONSTANTINE PHIPPS

ORDER

WHEREAS on March 8, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 37, 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5 as amended (the "Act") accompanied by a Statement of Allegations of Staff of the Commission dated March 7, 2013 with respect to Onix International Inc. ("Onix International") and Tyrone Constantine Phipps ("Phipps") (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing announced that a hearing would be held at the offices of the Commission on April 3, 2013;

AND WHEREAS on April 3, 2013, Staff attended the hearing and Phipps attended on behalf of himself and Onix International;

AND WHEREAS Staff requested that a pre-hearing conference be scheduled in this matter;

AND WHEREAS Phipps consented to the scheduling of a pre-hearing conference;

AND WHEREAS the Commission ordered that the hearing be adjourned to a confidential pre-hearing conference on May 13, 2013 at 11:30 a.m.;

AND WHEREAS on May 13, 2013, Staff and Phipps attended the pre-hearing conference and made submissions;

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

IT IS HEREBY ORDERED that the hearing on the merits in this matter shall commence on September 5, 2013 at 10:00 a.m. at the offices of the Commission and shall continue on September 6, 9, 11, 12 and 13, 2013 or on such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary;

IT IS FURTHER ORDERED that a further confidential pre-hearing conference be held on July 16, 2013 at 2:30 p.m.

DATED at Toronto this 13th day of May, 2013.

"James D. Carnwath"

2.2.3 Sino-Forest Corporation et al.

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

AND

IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN,
ALBERT IP, ALFRED C.T. HUNG,GEORGE HO,
SIMON YEUNG and DAVID HORSLEY

ORDER

WHEREAS the Ontario Securities Commission ("the Commission") issued a Notice of Hearing (the "Notice of Hearing") and Statement of Allegations in this matter dated May 22, 2012 pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended in respect of Sino-Forest Corporation ("Sino-Forest"), Allen Chan ("Chan"), Albert Ip ("Ip"), Alfred C.T. Hung ("Hung"), George Ho ("Ho"), Simon Yeung ("Yeung") and David Horsley ("Horsley");

AND WHEREAS on May 22, 2012, the Notice of Hearing gave notice that a hearing would be held on July 12, 2012 at 10:00 a.m. before the Commission;

AND WHEREAS on July 12, 2012, counsel for Staff, counsel for Sino-Forest, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared before the Commission and consented to the hearing being adjourned to October 10, 2012;

AND WHEREAS on July 12, 2012 the hearing in this matter was adjourned to October 10, 2012 at 10:00 a.m.;

AND WHEREAS on October 10, 2012 the hearing in this matter was adjourned to January 17, 2013;

AND WHEREAS on January 17, 2013 counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared before the Commission and requested that the hearing be adjourned to May 13, 2013 for the purpose of conducting a pre-hearing conference;

AND WHEREAS on January 17, 2013 the Commission ordered that a pre-hearing conference be held on May 13, 2013;

AND WHEREAS on May 13, 2013 a pre-hearing conference was commenced before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS the Commission is satisfied that Sino-Forest was provided with notice of the May 13, 2013 pre-hearing conference;

IT IS HEREBY ORDERED that the pre-hearing conference in this matter be continued on July 19, 2013, at 9:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

DATED at Toronto this 13th day of May, 2013.

"Mary G. Condon"

2.2.4 The Juniper Fund Management Corporation et al. – ss. 127 and 127.1

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

AND

IN THE MATTER OF
THE JUNIPER FUND MANAGEMENT CORPORATION,
JUNIPER INCOME FUND,
JUNIPER EQUITY GROWTH FUND and
ROY BROWN (a.k.a. ROY BROWN-RODRIGUES)

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on March 21, 2006, the Ontario Securities Commission (the "Commission") issued a 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"), accompanied by a Statement of Allegations dated March 21, 2006 filed by Staff of the Commission ("Staff") in respect of Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues) (collectively, the "Respondents");

AND WHEREAS on July 5, 2007, Staff filed an Amended Statement of Allegations;

AND WHEREAS a hearing on the merits in this matter was held before the Commission on September 19, 20, 21, 22, 23, 28, 29, October 5, November 9 and December 21, 2011, and February 14, 22, April 4, May 28, 30, June 8 and September 4, 2012;

AND WHEREAS following the hearing on the merits, the Commission issued its Reasons and Decision with respect to the merits on April 11, 2013;

AND WHEREAS on April 11, 2013, the Commission ordered that the parties shall appear before the Commission on June 14, 2013 at 10:00 a.m. at the offices of the Commission at 20 Queen Street West, Toronto, ON, for the sanctions and costs hearing, and further ordered that:

(i) Staff shall file written submissions by 4:30 p.m. on May 24, 2013;

(ii) The Respondents shall file responding written submissions by 4:30 p.m. on June 7, 2013;

(iii) Staff shall file reply written submissions (if any) by 4:30 p.m. on June 12, 2013; and

AND WHEREAS by email dated April 13, 2013 Roy Brown advised the Secretary's Office that he was unavailable to attend the sanctions and costs hearing on

June 14, 2013 due to travel commitments and a planned vacation;

AND WHEREAS the Commission scheduled a case conference on May 7, 2013 to consider Roy Brown's request to adjourn the sanctions and costs hearing;

AND WHEREAS on May 7, 2013, Roy Brown participated in the case conference by way of conference call and Staff attended in person;

AND WHEREAS Roy Brown advised that he was making efforts through Pro Bono Law Ontario to obtain counsel and Staff advised that it was not opposed to a short adjournment of the sanctions and costs hearing if Roy Brown was unavailable on June 14, 2013;

AND WHEREAS following the case conference, Staff requested that the time for delivery of its written sanctions and costs submissions be extended to May 31, 2013 at 4:30 p.m. and Roy Brown took no position on Staff's request to extend the date for Staff to file its written sanctions and costs submissions with the Commission;

IT IS ORDERED that the June 14, 2013 sanctions and costs hearing date be vacated;

IT IS FURTHER ORDERED that Staff shall file written sanctions and costs submissions by 4:30 p.m. on May 31, 2013;

IT IS FURTHER ORDERED that the parties shall appear before the Commission on July 4, 2013 at 10:00 a.m. so that Roy Brown can provide the Commission with an update on his efforts to retain counsel.

DATED at Toronto this 15th day of May, 2013.

"Vern Krishna," QC

2.2.5 Quadrexx Asset Management Inc. et al. – ss. 127(1) and (8)

IN THE MATTER OF
THE SECURITIES ACT,

R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUADREXX ASSET MANAGEMENT INC.,
QUADREXX SECURED ASSETS INC.,
OFFSHORE OIL VESSEL SUPPLY SERVICES LP,
QUIBIK INCOME FUND AND QUIBIK OPPORTUNITIES FUND

ORDER
(Subsections 127(1) and (8) of the Act)

WHEREAS on February 6, 2013, the Ontario Securities Commission (the "Commission") issued a temporary order (the "Temporary Order") pursuant to subsections 127(1) and (5) of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act") with respect to Quadrexx Asset Management Inc. ("Quadrexx") and with respect to Quadrexx Secured Assets Inc. ("QSA"), Offshore Oil Vessel Supply Services LP ("OOVSS"), Quibik Income Fund ("QIF") and Quibik Opportunity Fund ("QOF"), (collectively, the "Quadrexx Related Securities") ordering that:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act that all trading in the securities of Quadrexx and Quadrexx Related Securities shall cease;

2. Pursuant to paragraph 1 of subsection 127(1) of the Act that the following terms and conditions apply to the registration of Quadrexx as an exempt market dealer ("EMD"):

    a) Quadrexx shall be entitled to trade only in securities that are not Quadrexx and Quadrexx Related Securities;

    b) before trading with or on behalf of any client after the date hereof, Quadrexx and any dealing representative shall (i) advise such client that Quadrexx has a working capital deficiency as at December 31, 2012, and (ii) deliver a copy of this Order to such client; and

    c) Quadrexx and any dealing representatives shall not accept any new clients or open any new client accounts of any kind;

3. Pursuant to paragraph 1 of subsection 127(1) of the Act that the following terms and conditions apply to the registration of Quadrexx as a portfolio manager ("PM") and as an investment fund manager ("IFM"):

    a) Quadrexx's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Quadrexx Funds; and

    b) Quadrexx shall not accept any new clients or open any new client accounts of any kind; and

4. Pursuant to subsection 127(6) of the Act that the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on February 19, 2013, counsel for the Respondents advised the Commission that the Respondents are not opposed to the suspension of the registration of Quadrexx as an EMD and requested fourteen days before the suspension of Quadrexx as a PM and as an IFM in order to deal with the transfer of the managed accounts for which Quadrexx is the PM to another registrant and to consider options for the Quadrexx Related Securities which are currently subject to the Temporary Order;

AND WHEREAS on February 19, 2013, the Commission ordered:

1. the registration of Quadrexx as an EMD be suspended immediately;

2. the portion of the Temporary Order attaching terms and conditions to the registration of Quadrexx as a PM and as an IFM be extended to March 7, 2013;

3. the portion of the Temporary Order ordering all trading to cease in the securities of Quadrexx and Quadrexx Related Securities be extended to March 7, 2013;

4. notice of the ongoing Commission proceeding, the two Commission orders, and the status of the clients' accounts be sent to all Quadrexx clients; and

5. the hearing shall be adjourned to March 6, 2013 at 10:00 a.m.;

AND WHEREAS on March 4, 2013, Quadrexx provided notice of these proceedings to its EMD and PM clients in a form of letter approved by Staff;

AND WHEREAS on March 7, 2013, the Commission ordered:

1. the portion of the Temporary Order attaching terms and conditions to the registration of Quadrexx as a PM and as an IFM be extended to March 29, 2013;

2. the portion of the Temporary Order ordering all trading in the securities of Quadrexx and Quadrexx Related Securities be extended to March 29, 2013;

3. the name of QOF in the Temporary Order be changed to "Quibik Opportunities Fund"; and

4. the hearing shall be adjourned to March 28, 2013 at 2:00 p.m.;

AND WHEREAS on March 28, 2013, Staff filed: (i) Quadrexx's proposal to appoint a Receiver for Quadrexx and QSA; (ii) Quadrexx's plans to wind up QSA and OOVSS; (iii) Quadrexx's plan to transfer Quadrexx's Managed Accounts, QIF and QOF to Matco Financial Inc. ("Matco"); and (iv) Quadrexx's plan to appoint Robson Capital Management Inc. as the new PM and IFM of Diversified Assets LP and Property Values Income Fund Common Shares LP;

AND WHEREAS on March 28, 2013, the Commission ordered:

1. the portion of the Temporary Order issued under paragraph 1 of subsection 127(1) attaching terms and conditions to the Registration of Quadrexx as a PM and as an IFM be extended to May 16, 2013;

2. the portion of the Temporary Order issued under paragraph 2 of subsection 127(1) that ordered all trading to cease in the securities of Quadrexx and Quadrexx Related Securities be extended to May 16, 2013; and

3. the hearing to consider whether to vary any of the terms of the Temporary Order shall proceed on May 15, 2013 at 10:00 a.m.;

AND WHEREAS it appears to the Commission that Quadrexx has and will continue to have a capital deficient contrary to subsection 12.1(2) of NI 31-103 and may have engaged in conduct that is contrary to the Act;

AND WHEREAS on May 15, 2013, Staff filed the affidavit of Michael Ho sworn May 14, 2013 which sets out the steps taken by the Respondents to transfer the Managed Accounts to Matco and wind down Quadrexx, QSA, OOVSS, Canadian Hedge Watch Index Plus LP ("CHWIP") and HFI Limited Partnership ("HFI");

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

IT IS HEREBY ORDERED pursuant to paragraph 1 of subsection 127(1) of the Act that the registration of Quadrexx as a PM and as an IFM is suspended effective immediately;

IT IS FURTHER ORDERED pursuant to subsection 127(8) of the Act that the portion of the Temporary Order issued under paragraph 2 of subsection 127(1) that ordered all trading to cease in the securities of Quadrexx and Quadrexx Related Securities is extended to August 15, 2013, other than as may be required to facilitate the dissolutions or wind ups of Quadrexx and/or the Quadrexx Related Securities;

IT IS FURTHER ORDERED that the hearing to consider: (i) the need to further extend the Temporary Order; and (ii) for the Commission to receive an update on the wind ups or dissolutions of Quadrexx, OOVSS, QSA, CHWIP and HFI will proceed on August 14, 2013 at 10:00 a.m.

DATED at Toronto this 15th day of May, 2013.

"James E. A. Turner"

2.2.6 Ming Chao Zhao –-ss. 127(1) and 127.1 and Rule 12 of the Commission Rules of Procedure

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

AND

IN THE MATTER OF
MING CHAO ZHAO

ORDER
(Pursuant to subsection 127(1) and section 127.1
of the Securities Act and Rule 12 of the Commission Rules of Procedure)

WHEREAS on May 2, 2013, 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 Staff of the Commission ("Staff") filed a Statement of Allegations dated May 2, 2013 (the "Statement of Allegations") in respect of Ming Chao Zhao (the "Respondent");

AND WHEREAS the Respondent and Staff entered into a Settlement Agreement dated April 30, 2013, (the "Settlement Agreement") in which they agreed to a settlement in relation to the matters set out in the Notice of Hearing and the Statement of Allegations subject to the approval of the Commission;

AND WHEREAS the Commission has reviewed the Notice of Hearing, the Statement of Allegations and the Settlement Agreement and has heard submissions from counsel for Staff and counsel for the Respondent;

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 subsection 127(1)2 of the Act, trading in any securities by the Respondent shall cease permanently, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the Income Tax Act (Canada)) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(c) pursuant to subsection 127(1)2.1 of the Act, the acquisition of any securities by the Respondent is prohibited permanently, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the Income Tax Act (Canada)) in which Zhao and/or his spouse have sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

(d) notwithstanding paragraphs (b) and (c) above, Zhao shall be permitted to have 30 calendar days from the date of this Order to effect liquidating trades only of any non-mutual fund securities that he owns in BMO Investorline accounts # 22043142, 22429619, and 21640397 and he must give a copy of this Order to the Chief Compliance Officer of BMO Investorline and provide notice to Staff of the Commission upon completion of his liquidating trades;

(e) pursuant to subsection 127(1)3 of the Act, any exemptions contained in Ontario securities law do not apply to the Respondent permanently, except for the purpose of trades described in paragraphs (b) and (c) set forth above in this Order;

(f) pursuant to subsection 127(1)6 of the Act, the Respondent is reprimanded;

(g) pursuant to subsection 127(1)7 of the Act, the Respondent resign any position he holds as a director or as an officer of any issuer;

(h) pursuant to subsection 127(1)8 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of any issuer for ten years;

(i) pursuant to subsection 127(1)8.1 of the Act, the Respondent resign any position he holds as a director or as an officer of a registrant;

(j) pursuant to subsection 127(1)8.2 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of a registrant permanently;

(k) pursuant to subsection 127(1)8.3 of the Act, the Respondent resign any position he holds as a director or as an officer of an investment fund manager permanently;

(l) pursuant to subsection 127(1)8.4 of the Act, the Respondent is prohibited from becoming or acting as a director or as an officer of an investment fund manager permanently;

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

(n) pursuant to subsection 127(1)9 of the Act, the Respondent pay an administrative penalty of $750,000 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties;

(o) pursuant to subsection 127(1)10 of the Act, the Respondent disgorge to the Commission the amount of $416,719 which is designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act to or for the benefit of third parties, of which $350,000 shall be paid by the Respondent upon the making of this Order; and

(p) pursuant to subsection 127.1(1) of the Act, the Respondent pay the costs of the Commission's investigation in the amount of $30,000.

DATED at Toronto this 17th day of May, 2013.

"Edward P. Kerwin"

2.2.7 Pro-Financial Asset Management Inc. – ss. 127(1) & 127(5)

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

AND

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.

TEMPORARY ORDER
Subsections 127(1) & 127(5)

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

PFAM's Business

1. Pro-Financial Asset Management Inc. ("PFAM"), formerly Pro-Hedge Funds Inc., is a company incorporated under the laws of Ontario with its registered office located in Oakville, Ontario. From 2005 to 2009, PFAM was registered under the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act") as a limited market dealer and an investment counsel and portfolio manager. From 2009 to the present, PFAM has been registered as a dealer in the category of exempt market dealer and as an adviser in the category of portfolio manager.

2. On September 20, 2010, PFAM applied for registration as an investment fund manager but the decision to grant or refuse PFAM's registration as an investment fund manager has been held in abeyance. As a result, PFAM has been operating as an investment fund manager under the grandfathering provision found in subsection 16.4(1) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103").

3. As a limited market dealer or as an exempt market dealer, PFAM sold by way of private placement interests in three hedge funds: Pro-Hedge Capital Preservation Fund, Pro-Hedge Elite Fund, and Pro-Hedge Millenium Wave Global Opportunities Fund, collectively referred to as the "Pro-Hedge Funds". The Pro-Hedge Funds are not being marketed to investors. As at November 28, 2012, the Pro-Hedge Funds had approximately $450,000 in assets under management.

4. PFAM is the portfolio manager and the investment fund manager for the Pro-Hedge Funds and for prospectus-qualified mutual funds. The mutual funds, Pro FTSE RAFI Canadian Index Fund, Pro FTSE RAFI US Index Fund, Pro FTSE RAFI Global Index Fund, Pro Money Market Fund, Pro FTSE RAFI Hong Kong China Index Fund, Pro FTSE RAFI Emerging Markets Index Fund, Pro FTSE NA Dividend Index Fund, Pro-Fundamental Balanced Index Fund and Pro-Fundamental Bond Index Fund, are collectively referred to as the "Pro-Index Funds". As at November 28, 2012, the Pro-Index Funds had approximately $120 million in assets under management.

5. PFAM acts as the portfolio manager for managed accounts with total assets under management of approximately $10 million (the "Managed Accounts").

6. PFAM, operating under its former name Pro-Hedge Funds Inc., acted as a sales agent in the distribution of exempt products known as principal protected notes ("PPNs") in or between 2003 and 2007.

PFAM's Working Capital Deficiency

7. On November 30, 2012, PFAM's chief financial officer advised Staff that, based on her review, PFAM had a working capital deficiency of $183,367 as at October 31, 2012.

8. On February 22, 2013, PFAM advised Staff that PFAM had a continuing working capital deficiency and filed a Form 31-103F1 – *Calculation of Excess Working Capital* ("Form 31-103F1") with the Commission which showed that PFAM had a working capital deficiency of $726,746 as at October 31, 2012 based on its annual audited financial statements.

9. Subsection 12.1(1) of N1 31-103 states that if, at any time, the excess working capital of a registered firm, as calculated in accordance with Form 31-103F1 is less than zero, the registered firm must notify the regulator as soon as possible. Subsection 12.1(2) of N1 31-103 states that the excess working capital of a registered firm as calculated in accordance with Form 31-103F1 must not be less than zero for two consecutive days.

10. PFAM has not rectified its working capital deficiency to this date.

Principal Protected Notes ("PPNs")

11. PFAM has participated as sales agent for Société Générale (Canada) and BNP Paribas Canada (the "Banks") in the distribution of nine series of PPNs from approximately mid 2003 to early 2007 inclusive. The PPNs issued by the Banks have maturity dates which ranged from December 2010 to October 31, 2016.

12. In or about December 2012, Staff became aware of a discrepancy in the number of outstanding PPNs reported in the records of the record-keeper for the notes and in the records of the trustee. Staff requested a reconciliation be prepared by PFAM with the involvement of an independent third party.

13. On or about February 15, 2013, PFAM provided Staff with an outline of PFAM's work plan for its reconciliation process.

14. On or about March 22, 2013, PFAM provided an update on the reconciliation process which stated that the opening unit discrepancies between the records of the record-keeper and the records of the trustee were 2,302.9356 units equivalent to $230,293.56. The update also set out a "price discrepancy" in the early redemptions of PPNs totalling $566,839.26 across nine series of PPNs.

15. On or about April 23, 2013, PFAM provided a PPN reconciliation report (the "Reconciliation Report") to Staff which provided that the current discrepancy between the record-keeper and the trustee was $1,222,549.45, meaning that the total cash obligations to PPN noteholders disclosed in the record-keeper's records exceeded the amount in the trustee's records by $1,222,549.45. The Reconciliation Report stated that PFAM expects to finalize its reconciliation by the end of May 2013.

AND WHEREAS Staff's investigation is ongoing;

AND WHEREAS it appears to the Commission that PFAM: (i) is capital deficient contrary to subsection 12.1(2) of NI 31-103; and (ii) there is an ongoing reconciliation being conducted by PFAM for the nine series of PPNs;

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in subsection 127(5) of the Act;

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

AND WHEREAS by Authorization Order made April 12, 2013, pursuant to subsection 3.5(3) of the Act, the Commission authorized each of Howard I. Wetston, James E. A. Turner, Mary G. Condon, James D. Carnwath, Edward P. Kerwin, Vern Krishna, Alan J. Lenczner, Christopher Portner and C. Wesley M. Scott acting alone, to exercise the powers of the Commission to make Orders under section 127 of the Act;

IT IS ORDERED that the registration of PFAM as a dealer in the category of an exempt market dealer is suspended;

IT IS FURTHER ORDERED that the following terms and conditions apply to the registration of PFAM as an adviser in the category of portfolio manager and to its operation as an investment fund manager;

(i) PFAM's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Pro-Hedge Funds and Pro-Index Funds; and

(ii) PFAM shall not accept any new clients or open any new client accounts of any kind in respect of the Managed Accounts;

IT IS FURTHER ORDERED that a copy of this Temporary Order will be prominently posted by PFAM on the home page of its website at www.pro-financial.ca; and

IT IS FURTHER ORDERED that this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

DATED at Toronto this 17th day of May, 2013.

"Mary Condon"

2.2.8 Moncasa Capital Corporation and John Frederick Collins – ss. 127 and 127.1

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

AND

IN THE MATTER OF
MONCASA CAPITAL CORPORATION
and JOHN FREDERICK COLLINS

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on March 6, 2012, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the *Securities Act,* R.S.O. 1990 c. S.5, as amended (the "Act"), accompanied by a Statement of Allegations dated March 6, 2012 filed by Staff of the Commission ("Staff") in respect of Moncasa Capital Corporation and John Frederick Collins (collectively, the "Respondents");

AND WHEREAS on December 3, 2012, Staff filed an Amended Statement of Allegations;

AND WHEREAS a hearing on the merits in this matter was held before the Commission on January 21, 22, 23, 24 and March 13, 2013;

AND WHEREAS following the hearing on the merits, the Commission issued its Reasons and Decision with respect to the merits on May 17, 2013;

IT IS ORDERED that:

1. Staff shall serve and file written submissions on sanctions and costs by 4:00 p.m. on June 7, 2013;

2. The Respondents shall serve and file responding written submissions on sanctions and costs by 4:00 p.m. on June 21, 2013;

3. Staff shall serve and file reply written submissions on sanctions and costs (if any) by 4:00 p.m. on June 28, 2013;

4. the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, ON, on July 11, 2013, at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and

5. upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party, and such party is not entitled to any further notice of the proceeding.

DATED at Toronto this 17th day of May, 2013.

"Edward P. Kerwin"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 White Capital Corporation and Matthew White – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION TO SUSPEND
THE REGISTRATIONS OF WHITE CAPITAL CORPORATION AND
MATTHEW WHITE

OPPORTUNITY TO BE HEARD BY THE DIRECTOR

Under section 31 of the Securities Act

Director's decision

1. My decision is that the registrations of each of White Capital Corporation (White Capital) and Matthew White (collectively, the Applicants) are hereby suspended. My decision is based on the:

   a. verbal arguments and written submissions of Michael Denyszyn, Senior Legal Counsel, Compliance and Registrant Regulation Branch (CRR) for Staff of the Ontario Securities Commission (OSC), and Jordan Glick on behalf of the Applicants

   b. testimony of Kelly Everest (CRR), Carlin Fung (CRR), Albert Ciorma (Enforcement Branch, OSC), Matthew White, Keith Bullen, and David Gilkes. I have not relied on the testimony of Mrs. B or Mr. B. Due to a number of inconsistencies in their evidence, I did not find it credible and have therefore given it no weight, and

   c. evidence provided at the opportunity to be heard (OTBH).

2. Applicants' counsel made numerous submissions concerning the fairness of the OTBH process in the suspension context and also made very serious allegations concerning the conduct of Staff in the course of this OTBH. I am of the view that the OTBH process in this case was entirely fair and that the allegations with respect to Staff's conduct were unsubstantiated and without merit.

3. This decision outlines the primary bases for my decision to suspend the Applicants' registrations. Although numerous other matters were discussed as part of the OTBH, in my opinion, the primary bases outlined below provide a sufficient and clear basis for me to conclude that neither White Capital nor Matthew White is suitable for registration and that each of their ongoing registrations is otherwise objectionable.

Registration history of the Applicants

4. White Capital was initially registered as a limited market dealer in 2004. By operation of law, White Capital became registered as an exempt market dealer (EMD) in September 2009.

5. Matthew White is the ultimate designated person (UDP), Chief Compliance Officer (CCO), and one of the dealing representatives of White Capital. Matthew White owns 100% of White Capital.

Suspension letter to the Applicants

6. By letter dated June 7, 2012, Staff advised the Applicants that it had recommended to the Director that:

   a. White Capital's registration as an EMD, and

   b. Matthew White's registration as UDP, CCO and a dealing representative

   be suspended. The letter summarized Staff's primary reasons for its recommendation. Pursuant to section 31 of the *Securities Act* (Ontario) (Act), the Applicants are entitled to an OTBH before a decision is made by me, as Director.

Verbal submissions occurred on November 1, and 2, 2012. Both counsel subsequently provided me with written submissions.

7. Staff argued that the Applicants lack the requisite integrity, proficiency, and solvency and their registrations should be suspended. Staff also argued that section 28 of the Act permits me, as Director, to suspend the registrations of the Applicants on the basis that the Applicants are not suitable for registration, have failed to comply with Ontario securities law, or that their registrations are otherwise objectionable.

Primary bases for my decision

$75,000 advance and the conflict with Canyon

8. The banking records of White Capital show that $75,000 was transferred into White Capital's bank account in September 2010 directly from a bank account associated with Canyon Acquisitions, LLC (Canyon). An equal amount was then immediately transferred out of the account to purchase a guaranteed investment certificate (GIC). The stipulated facts include a stipulation substantially to this effect.

9. In written closing submissions, White Capital submitted that there were two $75,000 transfers from Canyon. The first transfer occurred in July 2010 and it was described as being a personal loan to Matthew White. The second transfer occurred in September 2010 and it was described as being a commission advance to White Capital. White Capital submitted that it was the monies from the first transfer in July 2010 that were used to purchase the GIC from White Capital's bank account in September 2010. I don't find this explanation to be plausible and, in my opinion, neither White Capital's books and records nor its banking records reflect the flow of monies in this manner either.

10. As well, there was a lot of contradictory evidence and statements made about the two transfers of $75,000 from Canyon including by Matthew White under oath in May 2011, in correspondence with Staff in November 2011, in a submission from Applicants' counsel in July 2012, in the stipulated facts, and in Matthew White's testimony on November 2, 2012.

11. Two additional amounts were also paid by Canyon to White Capital - $40,000 in each of October and November 2010. The two additional payments were also included as stipulated facts. I was also provided with contradictory evidence about these amounts as well.

12. In my view, Matthew White's testimony and his various conflicting statements (including statements through his counsel) on the transfers of monies from Canyon lacked credibility. As a result, Matthew White impugned his integrity.

13. White Capital was obligated to provide conflict disclosure under section 13.4 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) about the nature and extent of conflicts. I agree with Staff's submissions that White Capital did not meet this obligation solely by disclosing in a statement of policies that White Capital is "an advisor to the underlying entities of Placencia Capital Trust", a Canyon issuer, particularly since a majority of the commissions earned by White Capital during the relevant periods were from sales of Canyon products.

14. I also want to address the argument from the Applicants that conflict concerns were diminished by the pre-payment of commissions by Canyon to White Capital. In my view, this argument is wholly incorrect. Matthew White and White Capital were in clear conflict with Canyon whether they were paid in advance or at the time of individual trades.

Know your client and suitability of client trades

15. There was a lot of debate at the OTBH regarding whether the clients of White Capital were, in fact, accredited investors (AIs). Staff points to its multiple reviews of White Capital's books and records, which on their face, raise significant questions regarding whether a number of clients were AIs.

16. White Capital points to questionnaires sent to a number of its clients as indicating that the clients were AIs. I had a number of difficulties with the White Capital questionnaires because they did not, in my mind, clearly address whether the clients were AIs. If the questionnaires had asked more detailed questions regarding the clients' financial assets (and net assets), they might have been much more useful in determining whether the clients were, in fact, AIs.

17. An example to illustrate. The KYC form for Client X indicated that she had a total net worth of approximately $1.8 million, including real estate of $1.2 million. Her income was shown as being between $100,000 and $125,000. Based solely on White Capital's books and records as provided to Staff, Client X is not an AI based either on the net income test, the financial assets test, or the net assets test. In her affidavit, Client X indicates that she had over $1 million in assets, not including her personal residence. However, no breakdown was provided of her assets. Also, in an interview

with Staff, Client X indicated that most of her assets consisted of real estate holdings (a statement which supports her KYC form). As a result, I have significant doubts as to whether Client X was an AI.

18. White Capital also raised an argument about the need for Staff to essentially "look behind" the books and records to assess suitability of client trades. White Capital also questioned Staff's approach to the review of suitability, in that Staff were by the very nature of the compliance field review process, forced to "look back" to assess suitability. While Staff recently started calling clients to confirm suitability and know your client information, it is a registrant's sole responsibility to ensure that its books and records are complete and that they accurately and fully reflect the registrant's assessment of know your client and suitability of client trades.

19. I concur with Staff that White Capital's books and records were not sufficient for White Capital to claim that they knew their clients or that the trades made for them were suitable. As well, I do not agree with White Capital's submission that these KYC and suitability issues were "record keeping issues" and that they should not, and do not, have an impact on White Capital's suitability for registration.

20. White Capital also argued that Staff should have provided registrants with more guidance on its expectations on the AI exemption (particularly the definitions of "financial assets" and "net assets"). Registrants were subject to a suitability requirement long before the introduction of NI 31-103 in the fall of 2009. As a registrant since 2004, White Capital should have been well aware of its registration requirements, including one of the most fundamental of registration requirements – the requirement to know your clients so that trades made to them are suitable.

Substantial non-compliance with Ontario securities law

21. Staff submits, and I agree, that the Applicants failed to comply with Ontario securities law. The following are some of the examples provided by Staff. In my view, I was provided with sufficient clear proof of each of these failures to comply with Ontario securities law:

    a. The requirement to keep such books, records and other documents as are necessary for the proper recording of business transactions and financial affairs (subsection 19(1) of the Act and section 11.5(1)(a) of NI 31-103)

    b. The requirement to maintain records to demonstrate the extent of the firm's compliance with applicable requirements of securities legislation (paragraph 11.5(1)(b) of NI 31-103)

    c. The requirement to provide books, records and documents required to be kept to Staff in a timely manner (subsection 19(3) of the Act)

    d. The requirement to take reasonable steps to ensure that the firm has sufficient KYC information on its clients (section 13.2 of NI 31-103)

    e. The requirement to take reasonable steps to ensure that purchases of securities are suitable for clients (section 13.3 of NI 31-103)

    f. The requirement that the UDP of a registered firm appropriately supervise the activities of the firm (and individuals acting on its behalf), and to promote compliance by the firm (and individuals acting on its behalf) with securities legislation (section 5.1 of NI 31-103), and

    g. The requirement that the CCO of a registered firm monitor and assess compliance by the firm, and individuals acting on its behalf, with securities legislation (paragraph 5.2(b) of NI 31-103).

22. There was some debate during the OTBH whether the significant books and records issues were sufficient to suspend the Applicants. In my view, the extent and pervasiveness of the issues in White Capital's books and records were more than sufficient for me to suspend the Applicants' registration. However, as set out above, these were not the only serious issues facing the firm.

23. As well, I was advised in Staff's closing submissions that White Capital's audited financial statements (which were due at the end of November) were not filed on a timely basis, due to "reasons outside our control and outside the control of our auditors" and later because "several key account confirmations [were] outstanding". Given the Applicants' recent OTBH and the fact that White Capital had recently hired an external consultant to assist it in meeting its regulatory responsibilities, I would have expected the Applicants to be extra diligent in meeting their regulatory responsibilities.

Decision on the suspension of the Applicants

24. My decision is to suspend the registration of each of the Applicants.

25. My decision was made as a result of the primary bases outlined above – all of which were proven by Staff. In my view, the Applicants' conduct clearly demonstrates a fundamental lack of understanding regarding Ontario securities law and a pattern of non-compliance with Ontario securities law. As I said in *Carter Securities Inc., Re* (2010), 33 OSCB 8691:

> "In conclusion, in my view the evidence in this case supports my decision that Carter's registration should be suspended. I concur with staff's assessment that Carter has engaged in a pattern of conduct – through its individual registrants – that demonstrates that it lacks the integrity required of registered firms under the Act."

26. I was also asked to consider why terms and conditions suggested by the Applicants, and not suspension, was not the appropriate remedy for the misconduct identified in this decision. In my view the test in *Jaynes, Re* (2000), 23 OSCB 1543 is appropriate here. That decision stated that "[w]hile terms and conditions restricting registration may be appropriate in a wide variety of circumstances, they should not be used to shore up a fundamentally objectionable registration". In my view, the use of terms and conditions in this case would be shoring up fundamentally objectionable registrations and the comments I made in Carter are equally applicable here:

> "Following the completion of a compliance field review, staff has a number of "tools" available to it from issuing a deficiency report (for identified issues that staff believes can be relatively easily remedied) up to and including the relatively new Director suspension power. In the majority of cases, a deficiency report is issued. However, faced with possible registrant misconduct, staff's approach is to assess the possible misconduct and determine the appropriate tool to deal with the misconduct. In some cases, staff determines that terms and conditions on registration are the appropriate remedy. Other possible staff remedies are to refer the issue(s) to the OSC's Enforcement Branch for further investigation and possible litigation, or do to as staff did in these circumstances and recommend suspension of registration."

27. I'd like to comment on the question of acceptable evidence in an OTBH and whether the nature of that evidence is different depending on the size or nature of operations of the registrant. Again, as in Carter, I had no difficulty in accepting the books and records of White Capital or correspondence between Staff and White Capital or its registered representatives as proper hearsay evidence without any viva voce evidence being presented. In this case, the primary bases described above were substantiated, where possible, by documents or affidavit evidence. Where records were missing from the Applicants' books and records, I had no difficulty concluding that the books and records were not being maintained as required. With respect to the second question, there is no requirement that the standard of evidence be higher because White Capital employs a number of dealing representatives. Nor do I think the argument for a higher standard of evidence makes sense. I agree with Staff's submissions that all "registered firms must have a chief executive officer (or equivalent) who is a suitable [UDP]. An unsuitable UDP does not insulate himself or herself from appropriate regulatory action by maintaining a sales force."

28. I'd also like to comment on the documents provided by the Applicants with metadata indicating that the documents had recently been created. While an explanation was provided to me during the OTBH for the recent metadata date, I want to warn registrants and their advisors that the re-creation of documents for provision to Staff – even if they are being reformatted or presented in a more readable form – is generally a dangerous practice. When books and records are requested by Staff, registrants are expected to provide the books and records in their original form.

Fairness and other considerations

29. The Applicants made extensive submissions about the fairness of this OTBH specifically and OTBHs generally. They also made very serious allegations with respect to the conduct of Staff in this matter. Some of the fairness submissions related to whether:

    a. a higher duty of fairness was required because the OTBH involved potential suspension of the Applicants

    b. the Applicants were afforded a fair opportunity to respond to issues raised by Staff

    c. there should be a difference between how OTBHs were conducted and how hearings and reviews before the Commission under section 8 of the Act were conducted, and

    d. Staff was fair to the Applicants by subjecting the Applicants to a number of oversight reviews over a relatively short period of time.

30. Even though this proceeding involved a recommendation of suspension for the Applicants, in my view the OTBH was conducted in a fair manner and the Applicants were provided with ample opportunity both during the verbal part of the OTBH and in lengthy written submissions to respond to the issues identified by Staff.

31. Despite the Applicants' submissions an OTBH is not meant to be a formal hearing. This point is made abundantly clear in the *Procedures for Opportunities to be Heard* made under the *Statutory Powers Procedure Act* which provide that:

> "An appearance before the Director will generally be an informal proceeding. The Ontario Securities Commission Rules of Practice and the Rules of Civil Procedure do not apply… At the appearance, the Director may ask any question and admit any evidence which he or she sees fit… Witnesses may be called, examined and cross-examined with the consent of the Director. The applicant and any witnesses may give evidence under oath or affirmation."

I also reinforced this point with Applicants' counsel during the course of the OTBH.

32. In the event that the Director issues an adverse decision, an applicant then has the opportunity under subsection 8(2) of the Act for a full hearing and review of the matter. This is treated by the Commission as a hearing de novo, which provides an applicant with a fresh consideration of all of the issues.

33. With respect to the Applicants' serious and repeated allegations of misconduct by Staff, it is sufficient to say that these were entirely unsubstantiated and in my view completely without merit.

Conclusion

34. In my view, neither White Capital nor Matthew White are suitable for registration and, for the reasons provided, their registrations are suspended.

"Marrianne Bridge", FCPA, FCA
Deputy Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission
January 11, 2013

ADDENDUM – JOINT RECOMMENDATION BY STAFF, WHITE CAPITAL CORPORATION AND MATTHEW WHITE TO MARRIANNE BRIDGE IN HER CAPACITY AS DIRECTOR

Staff ("Staff") of the Ontario Securities Commission ("OSC"), White Capital Corporation ("White Capital") and Matthew White ("White") jointly recommend that in light of your decision in the capacity of Director dated January 11, 2013 (the "Director's Decision"), the appropriate terms and conditions subsequent to the suspensions the Director imposed are that:

(i) White Capital's registration shall be suspended immediately and will continue to be suspended until such time as the Director accepts White Capital's application for the surrender of its registration and revokes White Capital's registration.

(ii) White Capital shall apply forthwith for the surrender of its registration.

(iii) White shall be permanently prohibited from seeking reinstatement of registration in the individual categories of ultimate designated person or chief compliance officer.

(iv) White shall not become a permitted individual of a new sponsoring firm for a period of 5 years from the date hereof.

(v) White shall be prohibited from applying for reinstatement of registration as a dealing representative for a period of 18 months from the date of the Director's Decision.

(vi) White shall be prohibited from applying for reinstatement of registration as a dealing representative until he successfully passes the Conduct and Practices Handbook examination, and until he furnishes Staff with evidence of the successful completion of this examination.

(vii) Subject to items (v) and (vi), Staff shall not recommend that an application by White for registration as a dealing representative with an appropriately registered firm be refused unless Staff becomes aware after the date of this joint recommendation of conduct impugning White's integrity, proficiency or solvency or conduct which would make his registration objectionable.

(viii) Should White apply for reinstatement of registration as a dealing representative, Staff will recommend that upon the reinstatement of White's reinstated registration he be subject to strict supervision by his sponsoring firm for a period of 1 year, beginning with the date of reinstatement of registration. White would accept these terms and conditions on his reinstated registration.

(ix) If the Director accepts this joint recommendation, White Capital and White will immediately withdraw their application dated January 16, 2013 for a hearing and review of the Director's Decision.

(x) If the Director accepts this joint recommendation, White Capital and White agree to waive all rights to a review of this matter.

(xi) If the Director accepts this joint recommendation, a copy of the Director's decision accepting this joint recommendation may be published on the OSC website and in the OSC Bulletin.

(xii) If the Director accepts this joint recommendation, none of the parties will make any public statement that is inconsistent with this joint recommendation.

(xiii) If the Director does not accept this joint recommendation, all discussions and negotiations between Staff, White Capital and White in relation to this matter, and the joint recommendation itself shall be without prejudice to the parties.

(xiv) Whether or not the Director approves this joint recommendation, neither White Capital nor White will use, in any proceeding, this joint recommendation or the negotiation or process of approval of this joint recommendation as the basis for any allegation of bias or unfairness or any other remedies or challenges that may otherwise be available.

Respectfully jointly submitted by,

"Erez Blumberger" ***April 26, 2013***
Erez Blumberger, Deputy Director, Date
Compliance and Registrant Regulation on behalf of
Staff of the Ontario Securities Commission

"Matthew White" ***April 26, 2013***
Matthew White on behalf of himself Date

and White Capital Corporation

In my capacity as Director, I hereby accept the joint recommendation.

"Marrianne Bridge"
Marrianne Bridge, Deputy Director,
Compliance and Registrant Regulation Branch

April 26, 2013
Date

3.1.2 Moncasa Capital Corporation and John Frederick Collins

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

AND

IN THE MATTER OF
MONCASA CAPITAL CORPORATION
AND JOHN FREDERICK COLLINS

REASONS AND DECISION

Hearing:	January 21, 22, 23, 24 and March 13, 2013	
Decision:	May 17, 2013	
Panel:	Edward P. Kerwin	-Commissioner
Appearances:	Tamara Center Jed Friedman	-For the Ontario Securities Commission
		-No one appeared for the respondents Moncasa Capital Corporation and John Frederick Collins

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REASONS AND DECISION

1. OVERVIEW

A. BACKGROUND

[1] This was a hearing before the Ontario Securities Commission (the "Commission"), pursuant to section 127 of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether John Frederick Collins ("Collins") and Moncasa Capital Corporation ("Moncasa") (collectively, the "Respondents") breached the Act and acted contrary to the public interest.

[2] A Statement of Allegations was filed by Staff of the Commission ("Staff") on March 6, 2012, and a Notice of Hearing was issued by the Commission on that same day. Staff filed an Amended Statement of Allegations on December 3, 2012. In the Amended Statement of Allegations, Staff alleges that during the period between April 1, 2008 and May 16, 2011 (the "Material Time"), the Respondents sold Moncasa securities to more than 50 investors in Ontario and elsewhere in Canada, raising approximately $1,200,000, purportedly to be used to purchase luxury vacation properties in the Caribbean that would be available for rental purposes. It is alleged that the Respondents have ignored investors' requests to return their investment and that as of May 16, 2011, Moncasa did not own any properties and all but $7,650 of the funds raised from investors had been expended.

[3] Staff alleges that the Respondents' conduct breached subsections 25(1)(a) (in force before September 28, 2009) and 25(1) (in force on and after September 28, 2009) of the Act (trading without registration), subsection 53(1) of the Act (illegal distribution of securities), section 19 of the Act (failure to keep proper books, records and other documents) and subsection 126.1(b) of the Act (fraud). Staff also alleges that Collins breached subsection 122(1)(a) of the Act (making false and/or misleading statements to the Commission). Staff further alleges that the Respondents' conduct was contrary to the public interest and harmful to the integrity of Ontario capital markets. In addition, Staff alleges that, as the sole officer and director of Moncasa, Collins authorized, permitted or acquiesced in breaches of sections 19, 25(1)(a) (in force before September 28, 2009) and 25(1) (in force on and after September 28, 2009), 53(1) and 126.1(b) of the Act by Moncasa and accordingly Collins is deemed to also have not complied with Ontario securities law pursuant to section 129.2 of the Act.

[4] During closing submissions on the merits, Staff withdrew their allegations under section 19 of the Act and their allegations relating to Form 45-106F1 brought under section 122(1)(a) of the Act.

B. HISTORY OF THE PROCEEDING

[5] The first appearance in this matter was held on April 4, 2012. Subsequent to that, five pre-hearing conferences were held on May 28, 2012, August 9, 2012, September 27, 2012, November 28, 2012 and December 17, 2012. At the May 28, 2012 pre-hearing conference, the hearing on the merits was set down to commence on January 21, 2013.

[6] The Respondents were represented by Wardle Daley Bernstein LLP until August 22, 2012. On that date, the Commission granted Wardle Daley Bernstein LLP leave to withdraw as counsel for the Respondents, in accordance with Rule 1.7.4 of the Commission's *Rules of Procedure* (2010), 33 O.S.C.B. 8017.

[7] Since the withdrawal of their counsel, the Respondents have been unrepresented and have not appeared at, or participated in, any subsequent appearances prior to the hearing on the merits. In addition, the Respondents did not appear at, or participate in, the hearing on the merits.

[8] The hearing on the merits commenced on January 21, 2013. Evidence was heard on January 21, 22, 23 and 24, 2013. By order dated January 24, 2013, the Commission set out the timing for filing written closing submissions and the date of March 13, 2013 for the hearing of oral closing submissions. Staff was ordered to file written closing submissions by February 15, 2013,

and the Respondents were ordered to file written closing submissions by March 1, 2013 (if any). Oral closing submissions were heard on March 13, 2013, and only Staff was in attendance.

C. THE RESPONDENTS

i. Moncasa Capital Corporation

[9] The corporate respondent is an Ontario corporation, which was incorporated on January 3, 2008 and changed its name to Moncasa effective April 10, 2008. Moncasa has never been registered with the Commission in any capacity.

[10] The registered head office of Moncasa was always 1 Yonge Street, Suite 1801, which is the address of Telsec Business Centres Inc. ("Telsec"), a company which provides virtual office space.

ii. John Frederick Collins

[11] Collins is a resident of Pickering, Ontario and was, throughout the Material Time, and is, the president and sole director of Moncasa.

[12] Collins was not registered in any capacity with the Commission during the Material Time, although he had been registered as a salesperson with Marchment & Mackay Limited from February 2, 1994 to November 21, 1997 and with C.J. Elbourne Securities Inc. from November 28, 1997 to June 30, 2000.

2. PRELIMINARY ISSUE

A. THE FAILURE OF THE RESPONDENTS TO APPEAR AT THE HEARING

[13] Neither of the two Respondents appeared at, or participated in, the hearing on the merits, in person or by counsel.

[14] Subsection 6(1) of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended (the "SPPA") requires that the parties to a Commission proceeding be given reasonable notice of the hearing.

[15] The SPPA permits the Commission to proceed in the absence of any party that has been given reasonable notice of the hearing. Subsection 7(1) of the SPPA states:

> Effect of non-attendance at hearing after due notice
>
> 7. (1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

[16] Similarly, the Commission's *Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "Commission's Rules") state:

> Rule 7.1 – Failure to Participate:
>
> If a Notice of Hearing has been served on any party and the party does not attend the hearing, the Panel may proceed in the party's absence and that party is not entitled to any further notice in the proceeding.

[17] Staff filed affidavits of service to establish that the Respondents were served and provided with:

1. The Notice of Hearing (affidavit of service from Laura Filice, dated March 22, 2012);
2. The Statement of Allegations (affidavit of service from Laura Filice, dated March 22, 2012);
3. The dates of the merits hearing (affidavit of service from Maria Montalto, dated September 26, 2012);
4. Hearing briefs (affidavit of service from Yolanda Leung, dated December 7, 2012);
5. The Amended Statement of Allegations (affidavit of service from Maria Montalto, dated December 14, 2012); and
6. A witness list and witness summaries (affidavit of service from Yolanda Leung, dated January 17, 2013).

7. Notice of the oral closing arguments and the written submissions of Staff (affidavit of service from Tamara Center, dated March 13, 2013).

[18] Staff also provided an email, dated October 9, 2012, which was sent to the Respondents providing notice of a pre-hearing conference that took place on November 28, 2012. The email included the Commission's order from September 27, 2012, which contains the dates for the merits hearing that were set down at a pre-hearing conference on May 28, 2012. Further, I note that at the time the dates for the merits hearing were set on May 28, 2012, the Respondents were represented by counsel and their counsel was aware of the dates for the hearing on the merits.

[19] It is important to note that it is Staff's responsibility to demonstrate that Staff has taken all reasonable efforts to serve the Respondents themselves. Staff has the responsibility to prove that they served the Respondents with documentation to inform them of the hearing dates and that all reasonable steps were taken to do so.

[20] In the circumstances, I am satisfied that notice of the hearing dates was served on the Respondents, that Staff took all reasonable steps available to provide reasonable notice of this proceeding to the Respondents and that I am entitled to proceed in their absence in accordance with subsection 7(1) of the SPPA and Rule 7.1 of the Commission's Rules.

3. ISSUES

[21] Staff's allegations raise the following issues for consideration:

1. Did the Respondents trade in securities without registration in breach of subsection 25(1)(a) of the Act (for the time period from April 1, 2008 to September 27, 2009) and subsection 25(1) of the Act (for the time period from September 28, 2009 to May 16, 2011) and contrary to the public interest?

2. Did the Respondents engage in a distribution of securities without a prospectus in breach of subsection 53(1) of the Act and contrary to the public interest?

3. Did the Respondents engage in fraud in breach of subsection 126.1(b) of the Act and contrary to the public interest?

4. Did Collins make false and/or misleading statements to the Commission in breach of subsection 122(1)(a) of the Act and contrary to the public interest?

5. Did Collins authorize, permit or acquiesce in breaches of subsections 25(1)(a) (during the time period from April 1, 2008 to September 27, 2009), 25(1) (during the time period from September 28, 2009 to May 16, 2011), 53(1) and 126.1(b) of the Act by Moncasa, such that he is deemed to also have not complied with Ontario securities law pursuant to section 129.2 of the Act?

[22] The standard of proof in this hearing is the civil standard of proof on a balance of probabilities. I need to assess each of these issues by examining the evidence in this matter and determining whether on a balance of probabilities "…it is more likely than not that the event occurred" (*F.H. v. McDougall,* [2008] 3 S.C.R. 41 at para. 44 ("*McDougall*")). As stated by the Supreme Court of Canada, "…evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test" (*McDougall, supra* at para. 46).

4. EVIDENCE

A. EVIDENCE PRESENTED

[23] Staff submitted to us documentary evidence, a total of 11 binders containing 68 documents marked as exhibits, and called 8 witnesses:

- Craig Gallacher, a senior investigator from the Commission's Enforcement Branch;
- Naomi Chak, a senior forensic accountant from the Commission's Enforcement Branch;
- S.I., Moncasa's former Brand Manager;
- M.C., co-founder and former Chief Strategic Officer of Moncasa;
- D.E., principal of Tri Palms Equity; and
- 3 Moncasa investors, L.M., J.M. and C.H.

[24] Staff also relied on one transcript from a voluntary interview of Collins before Commission Registration Staff on December 9, 2008, and transcripts of two compelled interviews of Collins before Enforcement Staff on May 5, 2011 and May 25, 2011, as well as excerpts from the transcript of a voluntary interview of J.B., a former salesperson at Moncasa, before

Enforcement Staff on March 22, 2011. Transcripts of these examinations were filed as evidence after the hearing pursuant to the Commission's order of January 24, 2013.

[25] In order to protect the privacy of the investor witnesses and certain Moncasa employees, their names and personal information have been anonymized and we required that Staff provide a redacted version of the record in accordance with the Commission's *Practice Guideline – April 24, 2012 - Use and Disclosure of Personal Information in Ontario Securities Commission's Adjudicative Proceedings.*

B OVERVIEW OF THE INVESTMENT SCHEME

[26] From April 15, 2008 to April 29, 2011, the Respondents sold securities to the public that had not been previously issued. These securities were units (made up of a share and a warrant) in Moncasa.

[27] Neither of the Respondents was registered with the Commission during the Material Time, and neither of them was exempt from the registration or prospectus requirements. No prospectus was filed and no receipt was issued by the Director to permit the sales of securities by Moncasa.

[28] Throughout the Material Time, Collins was the President, sole director and principal owner of Moncasa and was its directing mind. Collins solicited investors directly and paid commissions to others who solicited investors on behalf of Moncasa. Collins received and, in his sole discretion, directed the use of investor funds.

[29] The Respondents told investors that their funds would be used to invest in, purchase and develop vacation properties in the Caribbean and provided investors with sophisticated and professional promotional materials which created the illusion that Moncasa was in fact doing so.

[30] Moncasa's website and marketing materials contained misleading information, including logos of hotels with which Moncasa had no business relationship, pictures of islands where Moncasa did not own any property, floor plans of properties Moncasa did not own, as well as press releases which were misleading.

[31] Further, in order to induce investors to invest in Moncasa, the Respondents and individuals hired by the Respondents to sell Moncasa securities (none of whom was registered under the Act during the Material Time) used high pressure sales tactics, including making representations regarding the future value or price of the Moncasa shares and regarding Moncasa's shares being listed on a stock exchange. Abel Da Silva ("Da Silva"), one of the individuals hired by the Respondents to sell securities to investors, was a recidivist boiler room salesperson who had been sanctioned numerous times by the Commission for violations of the Act at the time he sold Moncasa shares.

[32] During the Material Time, Moncasa raised a total of $1,231,800 from 57 investors through the sale of shares and warrants of Moncasa and almost half of the investors were induced to make multiple investments in Moncasa. Investor funds were deposited into a bank account held in the name of Moncasa. Investor deposits were the main source of funds deposited to the Moncasa bank account during the Material Time.

[33] Of the funds deposited by investors into Moncasa's bank account, approximately 6% was spent on purchasing a right to use one property for four weeks annually. Further, approximately 26.6% of the funds provided by investors went to pay personal expenses of Collins, including personal credit cards, cash withdrawals as well as to a company owned by Collins and unrelated to Moncasa. Collins' personal finances were comingled with the finances of Moncasa.

[34] Despite repeated requests, investors did not receive any portion of their investments back and all of their money has been lost.

5. ANALYSIS

A. DID THE RESPONDENTS TRADE IN SECURITIES WITHOUT REGISTRATION IN BREACH OF SUBSECTION 25(1)(a) OF THE ACT (FOR THE TIME PERIOD FROM APRIL 1, 2008 TO SEPTEMBER 27, 2009) AND SUBSECTION 25(1) OF THE ACT (FOR THE TIME PERIOD FROM SEPTEMBER 28, 2009 TO MAY 16, 2011) AND CONTRARY TO THE PUBLIC INTEREST?

i. The Applicable Law

September 2009 Amendments to Section 25 of the Act

[35] Staff allege that the Respondents breached subsections 25(1)(a) and 25(1) of the Act during the Material Time. On September 28, 2009, which falls within the Material Time, the Act was amended, and so it is important to consider the wording of the Act both before and after the amendment came into effect.

[36] Prior to September 28, 2009, subsection 25(1)(a) of the Act read as follows:

> 25. (1) No person or company shall,
>
> (a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer ...
>
> ...
>
> and the registration has been made in accordance with Ontario securities law and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

[37] As of September 28, 2009, subsection 25(1) came into force and provides as follows:

> 25. (1) Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in or hold himself, herself or itself out as engaging in the business of trading in securities unless the person or company,
>
> (a) is registered in accordance with Ontario securities law as a dealer; or
>
> (b) is a representative registered in accordance with Ontario securities law as a dealing representative of a registered dealer and is acting on behalf of the registered dealer.

[38] The language of subsection 25(1) has become more broad as a result of the 2009 amendments; accordingly, if the Panel determines that the evidence indicates that the Respondents' actions prior to September 28, 2009 were contrary to the predecessor provision, then the same behaviour post-September 28, 2009 will also be in violation of the more broadly worded successor provision of the Act. The same does not hold true in reverse; namely, acts that are found to be in contravention of the amended subsection 25(1) of the Act post-September 28, 2009 are not necessarily in contravention of the predecessor subsection 25(1)(a) pre-September 28, 2009. In this case, Staff have alleged that the Respondents' behaviour and activities were the same throughout the Material Time and contravened the applicable provisions both before and after September 28, 2009.

[39] The phrase "engage [or engaging] in the business of trading" indicates that the Commission must find that the activity of trading in securities is carried out for a business purpose in determining whether a person or company needs to be registered pursuant to subsection 25(1) of the Act, as amended. Section 1.3 of Companion Policy 31-103CP provides the following guidance:

> **Business trigger for trading and advising**
>
> We refer to trading or advising in securities for a business purpose as the "business trigger" for registration.
>
> We look at the type of activity and whether it is carried out for a business purpose to determine if an individual or firm must register. We consider the factors set out below, among others, to determine if the activity is for a business purpose. For the most part, these factors are from case law and regulatory decisions that have interpreted the business purpose test for securities matters.

[40] The policy goes on to enumerate the following factors that are considered relevant in determining whether an individual or firm is trading or advising in securities for a business purpose and subject to the dealer or advisor registration requirement:

> a) Engaging in activities similar to a registrant;
>
> b) Intermediating trades or acting as a market maker;
>
> c) Directly or indirectly carrying on the activity with repetition, regularity or continuity;

d) Being, or expecting to be, remunerated or compensated; and

e) Directly or indirectly soliciting.

[41] The policy notes that the enumerated factors are not exhaustive and that no one factor on its own will determine whether an individual or firm is in the business of trading or advising in securities.

[42] It should be noted that the Companion Policy 45-106CP also addresses this issue and explains that a company that has even one dedicated salesperson will be "in the business of selling securities".

[43] Both the predecessor provision section 25(1)(a) and the successor provision section 25(1) of the Act refer to a trade or trading in a security. The terms "trade" or "trading" are defined in subsection 1(1) of the Act as:

> "trade" or "trading" includes,
>
> > (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith,
> >
> > […], and
> >
> > (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing; ("opération")

[44] Cases considering the issue of acts in furtherance of trading reflect a contextual approach that examines the totality of the conduct and the setting in which it occurs. In this analysis, the primary emphasis is on the intended effect of the acts on those at whom they are directed, and on the proximity of the acts to an actual or potential trade in securities (*Richvale Resource Corp. (Re)* (2012), 35 O.S.C.B. 4286 at para. 69 ("*Richvale*"); and *Momentas Corp. (Re)* (2006), 29 O.S.C.B. 7408 at para. 77 ("*Momentas*")).

[45] In previous cases, the Commission has found that a variety of activities, such as those that the Respondents engaged in, constitute acts in furtherance of trading, including:

- Accepting money from investors and depositing investor cheques for the purchase of shares in a bank account;

  (Limelight Entertainment Inc., (Re) (2008), 31 O.S.C.B. 1727 at para. 133 ("*Limelight*"))

- Providing potential investors with subscription agreements to execute;

- Distributing promotional materials concerning potential investments;

- Issuing and signing share certificates;

- Preparing and disseminating forms of agreements for signature by investors;

- Meeting with individual investors; and

  (*Momentas, supra* at para. 80)

- Preparing and disseminating promotional materials describing investment programs, including posting materials and information on websites.

  (*Richvale, supra* at paras. 70, 79-80; *Momentas, supra* at para. 80; and *First Federal Capital (Canada) Corp. (Re)* (2004), 27 O.S.C.B. 1603 at paras. 45-46 ("*First Federal Capital*"))

[46] The Commission has held that the existing jurisprudence on acts in furtherance of a trade continues to apply in determining whether the business purpose test established by section 25(1) of the Act has been met (*Hibbert (Re)* (2012), 35 O.S.C.B. 8583 at paras. 71-72 ("*Hibbert*"); and *Richvale, supra* at paras. 66-71, 79-80, 84-87 and 90).

ii. Discussion

Registration

[47] Staff tendered into evidence certificates issued under section 139 of the Act, which set out the Respondents' registration history, if any.

[48] Moncasa was never registered with the Commission in any capacity.

[49] Collins was not registered in any capacity with the Commission during the Material Time, although he was registered as a salesperson with Marchment & Mackay Limited from February 2, 1994 to November 21, 1997 and with C.J. Elbourne Securities Inc. from November 28, 1997 to June 30, 2000.

[50] In addition, Staff provided evidence that Collins had applied for registration as a registered representative, which was denied by the Commission's Director of Registration by letter dated September 13, 2000, for the reason that "…while employed at Marchment & MacKay Limited, [Collins] failed to deal fairly, honestly, and in good faith with clients."

[51] Further, testimony from Staff's investigator, Gallacher, revealed that Collins applied for registration again in 2007 in connection with a dealer named Ploutos Securities Ltd. and in 2008 to purchase a limited market dealer named Tri Palms Equity Inc. Neither of these applications for registration resulted in actual registration for Collins.

[52] In addition, Staff provided section 139 certificates relating to Moncasa's salespersons, J.B., P.P. and Da Silva, and these certificates show that none of them was registered during the Material Time, however P.P. had been previously registered.

Moncasa

[53] I find that Moncasa's conduct breached subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011.

[54] Specifically, evidence was provided which demonstrated that:

- Investors were provided with and signed subscription agreements for Moncasa securities. These subscription agreements were for the purchase of units of Moncasa comprised of one common share and one common share purchase warrant. The subscription price was $1 per unit. The common share purchase warrant was exercisable for one common share at a price of $1.25 until six months after the closing date. Moncasa was offering up to 2,000,000 units which potentially would result in aggregate proceeds of up to $2,000,000. The minimum purchase was 5,000 units.

- Investors provided cheques to Moncasa for their investment.

- 26 of the investors who invested with Moncasa made subsequent investments in Moncasa. As admitted by Collins during his compelled examination with Enforcement Staff on May 5, 2011, Moncasa made subsequent offerings at $0.25 and $0.50 per share and other Moncasa investors were not made aware of subsequent investments made at the lower price.

- Investors were provided with marketing materials for Moncasa, such as brochures and postcards, which promoted Moncasa as "The First All Caribbean Real Estate Portfolio" and a "Private Club Residence" with "20 islands", "80 properties", and "30 destinations".

- Investors received emails from Moncasa sales representatives, such as a salesperson named "Jim Wilson", which encouraged investors to review Moncasa's press releases. Moncasa issued a number of promotional press releases which stated the following: "If you don't [invest], as an investor you are going to be very, very disappointed in the years to come." and "Anyone who is able to get themselves involved in any form of capital appreciating investments stand to benefit over the next 2-3 years."

- Moncasa employed individuals as salespersons to sell Moncasa securities, whose primary job function was to sell Moncasa securities and whose compensation was based on their sale of Moncasa securities. For example, evidence was provided that one salesperson, Da Silva, sold Moncasa securities to 12 investors. Da Silva was paid, in cash, sales commissions equal to approximately 20% of the amounts invested in the Moncasa securities he sold, which sales commissions amounted to approximately $44,000 (*R v. Da Silva* [2012] O.J. No. 2073 ("*R v. Da Silva*") at para. 3). There is clear and cogent evidence that the primary job function of the salespeople at Moncasa was to actively solicit members of the public for the purposes of selling Moncasa's securities. Further, the fact that the salespeople were paid, at least in part, by way of commissions commensurate with their sales of Moncasa securities, is extremely telling

about what their function was at Moncasa. In addition, the fact that Collins misled Staff by overtly denying paying any form of commission to the salespeople, tends to demonstrate that he knew that Moncasa was carrying out registrable activity.

- In his voluntary examination with Registration Staff on March 22, 2011, J.B., a Moncasa sales representative, stated that Collins provided him with lists of potential investors to call which was a printed list including names and phone numbers, where the person worked and what province they lived in. No information regarding income was indicated on the list. Another Moncasa employee, S.I., also testified at the hearing that there was a list from which investors were called and that it was a list of 5,000 names that the Respondents had purchased from Dunhill, which is a company that compiles lists with the contact information of potential investors.

- Moncasa had two websites, www.moncasacapital.com and www.clubmoncasa.com. Evidence was provided that Collins registered both websites and was responsible for the material on the websites. S.I., who Collins had employed to design and develop the websites, testified that the "Moncasa Capital" website was supposed to have a "corporate investor look" whereas "Club Moncasa" was geared toward attracting families to the "white glove" vacation service. These websites were used as a tool to solicit investors, and Moncasa salespeople referred investors to these websites.

[55] In addition, I was provided with a list of investors from TD Bank (where Moncasa had its corporate bank accounts) that listed 57 investors and the amount each investor individually invested, which came to a grand total of $1,231,800. Further, I was provided with evidence of two lists of Moncasa security holders from the transfer agent, Equity Transfer & Trust Company ("Equity Transfer"), one as of August 21, 2009, which lists 53 shareholders, including Collins, M.C. (a co-founder and officer of Moncasa) and investors, and one as of April 7, 2011, which lists 59 shareholders, including Collins, M.C. and investors.

[56] At the hearing, we heard from the following investors who invested the amounts described below:

Investor L.M.

Investor L.M. was introduced to Moncasa at a breakfast meeting that was attended by himself, another Moncasa investor, and Collins. L.M. testified that, based on what he had learned at the breakfast meeting, "[Moncasa] just sounded like it might be a good spot to put some money in for future investments when you retire." (Transcript, Jan. 23, 2013, testimony of L.M, p. 581, lines 7-9). L.M. testified that he made seven investments at four different prices in Moncasa Capital Corporation. The prices were: $1 dollar per share, $1.25 per share, $0.50 per share, and $0.25 per share (Transcript, Jan. 23, 2013, testimony of L.M., pp. 595-614).

Investor C.H.

Investor C.H. was initially contacted by P.P., who was a salesperson at Moncasa. C.H's first investment was for $5,000. C.H. testified that one of the factors that drove him to make the investment was that he was told by P.P. that his investment "should double right away" (Transcript, Jan. 24, 2013, testimony of C.H., p. 752, lines 11-14). After being contacted by Collins, C.H. invested in more shares. C.H. invested a total of $20,000 in Moncasa.

[57] As a result of Moncasa's investment solicitation activities, a total of 57 investors invested a total of $1,231,800 in Moncasa securities.

[58] Furthermore, I note that the Ontario Court of Justice in R v. Da Silva made findings regarding investor funds received by Moncasa. Paragraph 2 of the decision states:

> The parties have filed an agreed statement of fact, which states that between April 1, 2008, and May 16, 2011, securities of Moncasa were sold to 57 investors in Ontario and throughout Canada, raising approximately $1.2 million, none of which has been returned to the investors. Moncasa shares were sold to the public on the pretence the capital raised would fund the acquisition of luxury properties in the Caribbean for use as rental units. Moncasa has never been registered with the Commission or elsewhere in Canada and shares were sold to the public without a prospectus, purportedly in reliance on the private issuer exemption
>
> (*Da Silva, supra* at para. 2)

[59] I conclude that Moncasa engaged in trades and acts in furtherance of trades in its securities in Ontario within the meaning of the Act. Moncasa also used its website to advertise and portray Moncasa as a legitimate company to excite investors and induce them to invest. Moncasa and its representatives were not registered in any capacity with the Commission and Moncasa and its salespersons actively engaged in the business of trading Moncasa securities. Moncasa contravened subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011, and there were no registration exemptions available to it, as discussed below.

Collins

[60] I find that Collins' conduct in connection with Moncasa breached subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011.

[61] As the directing mind of Moncasa, Collins:

- planned, was aware of and participated in the sale of Moncasa securities to the public;
- hired the salespeople to sell Moncasa securities to the public;
- met with investors to discuss the Moncasa investment;
- prepared and disseminated promotional materials relating to the Moncasa investment;
- directed potential investors to the websites in furtherance of selling Moncasa securities;
- provided subscription agreements to investors with instructions on how to complete the agreement;
- received funds from investors for the purpose of investing in Moncasa;
- was the sole signatory to the bank account into which investor funds were deposited;
- caused Moncasa's transfer agent to issue share certificates to purchasers of Moncasa's shares;
- signed Moncasa share certificates and delivered the share certificates to investors; and
- was responsible for the Moncasa websites that investors were referred to for information about the company when solicited to invest in Moncasa.

[62] With respect to Moncasa's websites, evidence was presented that demonstrated that Collins created and controlled Moncasa's websites. Gallacher testified that he performed a domain name registration search of www.moncasacapital.com and www.clubmoncasa.com, which revealed that Collins owned www.clubmoncasa.com and that the owner of www.moncasacapital.com was protected by a privacy service (Transcript, Jan. 22, 2013, testimony of Gallacher, p. 282, lines 7-19). However, Collins admitted during his compelled interview on May 5, 2011, that he was also the owner of www.moncasacapital.com. (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 40, lines 19-23).

[63] In addition, Collins was the signing authority for Moncasa. He signed numerous documents on behalf of Moncasa. For example, Collins was the sole signatory when Moncasa opened its business account at TD Canada Trust, which received investor funds and was also the sole signatory on Moncasa's "Business Access Card Authorization" form submitted to TD Canada Trust. Similarly, Collins was the only party that signed for Moncasa when it entered into a purchase agreement to obtain the right to use its one and only property in the Caribbean for four weeks per year. By signing such documents, he authorized and made Moncasa's actions possible.

[64] Collins also played a very active role soliciting investors. Investor L.M. testified that Collins solicited investments from him over numerous meetings. Most of these meetings took place over breakfast and L.M testified that they occurred "on a regular basis" (Transcript, January 23, 2013, testimony of L.M., page 618, lines 4-5). L.M. invested a total of seven times in Moncasa (Transcript, January 23, 2013, testimony of L.M., page 617, line 8). L.M. testified that Collins offered him "some of his own shares at a reduced price" because L.M. "had been investing so much" (Transcript, January 23, 2013, testimony of L.M., page 615, lines 1-2).

[65] I conclude that Collins engaged in trades and acts in furtherance of trades in Moncasa securities in Ontario within the meaning of the Act. During the Material Time, Collins was not registered in any capacity with the Commission and his conduct demonstrates that he engaged in the business of trading Moncasa securities. He violated subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011, and there were no registration exemptions available to him, as discussed below.

Exemptions

[66] Once Staff has shown that the Respondents have traded without registration, the onus shifts to the Respondents to establish that one or more exemptions was available to them (Limelight, supra at para. 142 and Re Ochnik (2006), 29 O.S.C.B. 3929 at para. 67).

[67] The Respondents did not participate at the hearing and did not establish that they qualified for any exemptions in National Instrument 45-106 – *Prospectus and Registration Exemptions* ("NI 45-106") or part 8 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations (*which came into force on September 28, 2009).

[68] While there was some evidence that the Respondents purported to rely on the private issuer and accredited investor exemptions in NI 45-106 based on statements made by Collins during a voluntary interview of Collins before Commission Registration Staff on December 9, 2008, and two compelled interviews of Collins before Enforcement Staff on May 5, 2011 and May 25, 2011, the statements made by Collins at these interviews do not establish the fulfillment of the criteria for the private issuer and accredited investor exemptions.

[69] Section 2.4 of NI 45-106 sets out the private issuer exemption which allows a non-reporting issuer to distribute securities to 50 people (excluding current and former employees of the issuer or affiliates) who fall within certain categories. For example, permitted private issuer security purchasers include:

- directors, officers, employees, founders or control persons of the issuer,
- directors, officers or employees of an affiliate of the issuer,
- certain relatives of a director, executive officer, founder or control person and certain relatives of the spouse of a director, executive officer, founder or control person,
- a close personal friend or a close business associate of a director, executive officer, founder or control person,
- an existing security holder of the issuer,
- an accredited investor, and
- a person that is not the public.

[70] These types of investors listed above are generally thought to have a relationship to the issuer that allows them to, at least partially, mitigate the risks of the investment because of the closeness of the relationship or the fact that they have access to information from the issuer.

[71] The majority of Moncasa's investors did not fall into the categories of investors listed in section 2.4 of NI 45-106. For example, most investors did not have a close relationship with the company and/or Collins. Evidence demonstrated that investors were cold-called by Collins and Moncasa's salespeople and the majority of these investors were not known to the Respondents. Of the 25 investors that Staff provided evidence regarding the method of how they were contacted by Moncasa employees, 19 investors (including J.M.) indicted that they were cold-called, and only 6 investors indicted that they had any form of a previous relationship with Collins or the salespeople.

[72] Therefore, the private issuer exemption was not available to the Respondents because: (a) the majority of the first 50 Moncasa investors were cold-called and were not individuals captured by the categories set out in section 2.4 of NI 45-106; and (b) sales were made to more than 50 investors, which is the limit for the private issuer exemption.

[73] Section 2.3 of NI 45-106 provides an exemption if the purchaser is an "accredited investor" and is purchasing the security as principal. The exemption is premised on an investor being an institution or sophisticated organization, or an individual having the ability to withstand financial loss or the resources to obtain expert financial advice. The term "accredited investor" is defined in section 1.1 of NI 45-106 and the following individuals fall under the definition of an accredited investor:

> "accredited investor" means
>
> …
>
> (j) an individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds $1,000,000,

(k) an individual whose net income before taxes exceeded $200 000 in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded $300 000 in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year,

(l) an individual who, either alone or with a spouse, has net assets of at least $5,000,000,

…

[74] With respect to the accredited investor exemption, several investors in Moncasa were not accredited investors. During his compelled examination on May 5, 2011, Collins admitted to Enforcement Staff that Moncasa securities were sold to another investor, L.G., who "possibly would not be an accredited investor" (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 90, lines 2-3). In addition, we heard testimony from investor witnesses that they were not accredited investors. Specifically:

- C.H. was not an accredited investor. From 2007 to 2009 his annual income did not exceed $150,000 and his wife's income did not exceed $30,000. C.H. had total assets valuing between $400,000 and $500,000 in 2008 and between $650,000 and $700,000 in 2009. During this period, $175,000 of C.H.'s assets were in his home. Furthermore, C.H. testified that he filled out the AI Certificate (defined below) but did not understand the term "accredited investor" and that he was told by P.P. that the form was merely a formality.

- L.M. was not an accredited investor. In 2008 and 2009, L.M.'s net assets were worth between $1.5 and $2 million. In 2008, his non real estate assets were worth approximately $500,000 and consisted of farm machinery and livestock. In 2009, these assets were worth approximately $350,000. From 2008 to 2010, L.M.'s joint net annual income with his wife did not surpass $65,000. L.M. testified that he signed the AI Certificate (defined below) because "[he] guess [he] figured [he] had over a million dollars' worth of assets with [his] farm and everything." No one from Moncasa explained the definition of "financial assets" to L.M.

[75] Neither of these investors fulfilled the criteria of an accredited investor in section 2.3 of NI 45-106.

[76] In addition, the fact that these investors may have checked off and/or initialled the "Accredited Investor Certificate" which was appended to the subscription agreement (the "AI Certificate") is not relevant if they did so with the mistaken belief that they were, in fact, accredited. It was the responsibility of Moncasa and Collins to verify that investors satisfied the criteria for an accredited investor and they did not do this. In fact, Moncasa had an incorrect definition of accredited investor posted on its website www.moncasacapital.com, which defined an "accredited investor" as "an individual who has a net worth of $1,000,000 or has earned $200,000 per year in the preceding two years." This description does not conform to the definition of "accredited investor" as articulated in section 2.3 of NI 45-106.

[77] Therefore, the accredited investor exemption was not available to the Respondents.

iii. Findings

[78] Based on the evidence discussed above, I find that both of the Respondents breached subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011 by engaging in trades and/or acts in furtherance of trades, when neither of the Respondents was registered and no registration exemption was available to them. I further find that such breaches were contrary to the public interest.

B. DID THE RESPONDENTS ENGAGE IN A DISTRIBUTION OF SECURITIES WITHOUT A PROSPECTUS IN BREACH OF SUBSECTION 53(1) OF THE ACT AND CONTRARY TO THE PUBLIC INTEREST?

i. The Applicable Law

[79] Subsection 53(1) of the Act sets out the prospectus requirement for trades that comprise a distribution:

No person or company shall trade in a security on his, her or its own account or on behalf of any other person or company if the trade would be a distribution of the security, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued for them by the Director.

[80] The definition of "distribution" is set forth in subsection 1(1) of the Act and states that:

"distribution", where used in relation to trading in securities, means,

(a) a trade in securities of an issuer that have not been previously issued

[…]

[81] As the Commission held in *Limelight,* a prospectus is fundamental to the protection of the investing public because it ensures that investors have full, true and plain disclosure of information to properly assess the risks of an investment and make an informed decision:

> The requirement to comply with section 53 of the Securities Act is important because a prospectus ensures that prospective investors have full, true and plain disclosure of information to properly assess the risks of an investment and make an informed investment decision. The prospectus requirements of the Act play a significant role in the overall scheme of investor protection. As stated by the court in *Jones v. F.H. Deacon Hodgson Inc.* (1986), 9 O.S.C.B. 5579 (H.C.) at 5590, "there can be no question but that the filing of a prospectus and its acceptance by the Commission is fundamental to the protection of the investing public who are contemplating purchase of the shares".
>
> (*Limelight, supra* at para. 139)

ii. Discussion

[82] As established above in my discussion of sections 25(1)(a) and 25(1) of the Act, the Respondents all engaged in trades and/or acts in furtherance of a trade, as defined in the Act. The Respondents have therefore met, and are caught by, the trading element under the first part of the definition of "distribution" under the Act.

[83] The second element of this definition is that the securities in question have not been previously issued. Moncasa's subscription agreement, which was provided to investors, states that the Moncasa securities were "part of a larger offering […] by [Moncasa] of up to 2,000,000 Units and will result in aggregate gross proceeds to [Moncasa] of up to $2,000,000." In Schedule "A" to the Moncasa subscription agreement, the terms and conditions of the subscription for the units clearly state that it is a "subscription for and offer to purchase the Units from [Moncasa]" and provide for the "issuance or delivery of the Offered Securities to the Subscriber". Also, the Transfer Agency Agreement entered into between Moncasa and its transfer agent, Equity Transfer, identifies Moncasa as the "**Issuer**", which "has appointed Equity as its transfer agent, registrant and disbursing agent of **its shares**" (emphasis added) and provides that upon receipt of documents from Moncasa authorizing the issuance of shares and instructions from Moncasa giving particulars of the owners of such shares, Equity Transfer shall register such shareholders and countersign and deliver certificates representing such shares in accordance with Moncasa's instructions. The language in the subscription agreement and in the transfer agency agreement indicates that Moncasa was selling and issuing securities that were not previously issued. The evidence showed that there is no record that Moncasa was a reporting issuer during the Material Time. In addition, Moncasa never filed a prospectus with the Commission. Further, there is no evidence that any investors were provided with a prospectus with respect to Moncasa.

[84] In addition, no prospectus exemption was available to the Respondents. As discussed above, while there was some evidence that the Respondents purported to rely on the private issuer and accredited investor exemptions in NI 45-106, based on statements made by Collins during a voluntary interview of Collins before Commission Registration Staff on December 9, 2008, and two compelled interviews of Collins before Enforcement Staff on May 5, 2011 and May 25, 2011, the statements made by Collins at these interviews do not establish fulfillment of the criteria for the private issuer and accredited investor exemptions. For the same reasons set out in paragraphs 66 to 77 of these reasons, we find that the Respondents did not establish that they qualified for any prospectus exemptions.

iii. Findings

[85] I conclude that both of the Respondents engaged in trades or acts in furtherance of trades. At the time of these trades, shares in Moncasa that were being traded had not previously been issued, and I therefore conclude that the trades constitute a distribution. Since no prospectus was filed for these trades, I find that both of the Respondents have contravened section 53(1) of the Act, as there were no valid exemptions available to the Respondents. I further find that such contraventions were contrary to the public interest.

C. DID THE RESPONDENTS ENGAGE IN FRAUD IN BREACH OF SUBSECTION 126.1(b) OF THE ACT AND CONTRARY TO THE PUBLIC INTEREST?

i. The Applicable Law

[86] Staff alleges that each of the Respondents engaged or participated in securities fraud, contrary to section 126.1(b) of the Act and contrary to the public interest.

[87] Section 126.1(b) of the Act provides as follows:

> A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities or derivatives of securities that the person or company knows or reasonably ought to know,
>
> . . .
>
> (b) perpetrates a fraud on any person or company.

[88] Section 126.1(b) of the Act was first considered by the Commission in *Re Al-tar* (2010), 33 O.S.C.B. 5535 ("Al-tar"), and the Commission set out the following statement of the law at paragraphs 214-221 of that decision:

> Fraud is "one of the most egregious securities regulatory violations" and is both "an affront to the individual investors directly targeted" and something that "decreases confidence in the fairness and efficiency of the entire capital market system" (*Re Capital Alternatives Inc.* (2007), A.B.A.S.C. 79 at para. 308 citing D. Johnston & K. D. Rockwell, *Canadian Securities Regulation,* 4th ed., Markham: LexisNexis, 2007 at 420).
>
> The term fraud is not defined in the Act. Due to the recent introduction of the fraud provision in the Act, there are no decisions from the Commission interpreting this provision. However, we can draw out guidance and principles from criminal and administrative law jurisprudence and decisions from other securities commissions.
>
> The British Columbia Court of Appeal addressed the application of the substantially identical fraud provision in the British Columbia *Securities Act,* R.S.B.C. 1996, c. 418, as amended (the "BC Act") in *Anderson v. British Columbia (Securities Commission)*, 2004 BCCA 7 ("*Anderson*"). The Supreme Court of Canada denied leave to appeal the Anderson decision ([2004] S.C.C.A. No. 81).
>
> In *Anderson,* the British Columbia Court of Appeal reviewed the legal test for fraud and relied on *R. v. Théroux,* [1993] 2 S.C.R. 5 ("*Théroux*"). In Théroux, Justice McLachlin (as she then was) summarized the elements of fraud as follows at paragraph 27:
>
> > . . . the *actus reus* of the offence of fraud will be established by proof of:
> >
> > 1. the prohibited act, be it an act of deceit, a falsehood or some other fraudulent means; and
> >
> > 2. deprivation caused by the prohibited act, which may consist in actual loss or the placing of the victim's pecuniary interests at risk.
> >
> > Correspondingly, the *mens rea* of fraud is established by proof of:
> >
> > 1. subjective knowledge of the prohibited act; and
> >
> > 2. subjective knowledge that the prohibited act could have as a consequence the deprivation of another (which deprivation may consist in knowledge that the victim's pecuniary interests are put at risk)
>
> Section 126.1 of the Act has the identical operative language as the fraud provision in the British Columbia Act. In interpreting the fraud provision in the British Columbia Act and with respect to the mental element, the British Columbia Court of Appeal in Anderson stated at paragraph 26 that:
>
> > …[the fraud provision of the BC Act] does not dispense with proof of fraud, including proof of a guilty mind. . . . Section 57(b) [the fraud provision of the BC Act] simply widens the prohibition against participation in transactions to include participants who know or ought to know that a fraud is being perpetrated *by others,* as well as those who participate in perpetrating the fraud. It does not eliminate proof of fraud, including proof of subjective knowledge of the facts constituting the dishonest act, by someone involved in the transactions. (emphasis in original)
>
> The British Columbia Court of Appeal in Anderson further explained at paragraph 29 that:
>
> > Fraud is a very serious allegation which carries a stigma and requires a high standard of proof. While proof in a civil or regulatory case does not have to meet the criminal law standard of proof beyond a reasonable doubt, it does require evidence that is clear and convincing proof of the elements of fraud, including the mental element.
> >
> > The British Columbia Court of Appeal approach to the legal test in the context of securities fraud as set out in Anderson was adopted in *Re Capital Alternatives Inc.,* 2007 ABASC 79, which was affirmed in *Alberta (Securities Commission) v. Brost,* [2008] A.J. No. 1071 (C.A.).

> For a corporation, it is sufficient to show that its directing minds knew or reasonably ought to have known that the corporation perpetrated a fraud to prove a breach of section 126.1(b) of the Act.

[89] The Commission has adopted substantially the same analysis in a number of subsequent decisions which were provided by Staff, including *Re Lehman Cohort* (2010), 33 O.S.C.B. 7041 at paragraphs 86-100; *Re Global Partners* (2010), 33 O.S.C.B. 7783 at paragraphs 238-245; *Re Borealis International Inc.* (2011), 34 O.S.C.B. 777, at paragraphs 65-67; and Re *Richvale, supra* at paragraphs 102-105.

[90] Courts and securities tribunals have found that "other fraudulent means" include non-disclosure of important facts, unauthorized diversion of funds, use of corporate funds for personal purposes and unauthorized arrogation of funds or property. (*Théroux, supra* at para. 18; *Anderson, supra* at para. 30; *Re Lehman Cohort, supra* at para. 90; *Re Richvale, supra* at para. 105).

ii. Discussion

Moncasa

[91] I find that Moncasa engaged in many acts of deceit, falsehoods and other fraudulent means that deprived investors of their funds.

Use of proceeds

[92] First of all, investors were misled about Moncasa's business assets and how investor funds were to be used and were being used.

[93] Specifically, Moncasa misrepresented to investors how investment proceeds would be used, telling them their funds would be used to acquire and develop real estate properties in the Caribbean. This is consistent with Collins' own statement during his compelled examination on May 5, 2011, when he told Enforcement Staff that the initial Moncasa business plan was to "acquire luxury real estate homes and operate a destination club" (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 116, lines 17-18). This is also consistent with M.C.'s testimony that "the original investors were going to invest in a company that was raising money to invest in real estate and it would only be in real estate." (Transcript, Jan. 22, 2013, testimony of M.C., p. 445, lines 5-9).

[94] Investors informed Staff that they understood that their investments would directly fund real estate purchases or development. Of the 31 investors who provided Staff with responses to investor questionnaires regarding use of proceeds, 19 believed that Moncasa would use investor funds to acquire properties in the Caribbean and an additional 9 believed that proceeds would be used to develop or invest in Caribbean real estate.

[95] The representations regarding the use of proceeds were made directly to investors by Collins and Moncasa's salespeople as well as through promotional materials and corporate documentation. For example, at Schedule "B" to the subscription agreement, the "Business of the Company" is stated as follows:

> **Business of the Company**
>
> The Corporation carries on business as a real estate holding company and, as part of its business, has an interest in the acquisition of land and the development of and/or upgrade of property relating to the hospitality industry. The Company is primarily focused on property acquisitions in the Dominican Republic.
>
> **Use of Proceeds**
>
> Proceeds from the issuance of the Units will be used to fund the Company's operations, and reduce mortgage debt on properties, so acquired […]
>
> (Exhibit 18 – Volume 2, Tab 16F, p. 97)

[96] With respect to how funds were actually used, which will be discussed further below, the evidence demonstrates that only a small portion of the monies raised was actually used to purchase an interest in real estate, which was a right to use a "One Bedroom Grand Bungalow King" unit for four one-week periods on a recurring annual basis. Even according to Collins' own figures, only $78,000 Canadian was spent on "Property Acquisition".

Promotional materials

[97] Moncasa mailed promotional postcards depicting photos of luxurious Caribbean vacation properties as well as three distinct floor plans. Along the bottom of one card it stated "20 islands, 80 properties, 30 destinations". On another card, the logos of Maxim Bungalows, Raffles, Westin, and Roco Ki were displayed and a number of Caribbean locations were indicated. The phrase "your personal chef" is underlined on one card and "personal concierge" on another. These promotional materials were completely false as Moncasa merely bought the right to use a single property for four one-week periods.

[98] The logos, brands and Caribbean islands indicated on the postcards were the same as those set out on Moncasa's website. However, in reality, Moncasa did not have any relationships with the brands and logos it associated itself with. Collins admitted that no agreements had been concluded with these hotels or islands and that Moncasa did not have permission to use their logos (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 38, lines 14-25 to p. 40, lines 1-3). S.I. testified that he thought that it was irresponsible for Moncasa to not notify the companies whose logos were being used on Moncasa's website.

[99] On the "Home" page of www.moncasacapital.com, along the bottom of the screen, there was a scrolling banner of logos of various high end vacation destinations in the Caribbean islands, as well as prestigious hoteliers. Gallacher testified that Moncasa did not own property in the islands (other than the brief time interest in a vacation property unit in the Dominican Republic) and did not have a relationship with these hoteliers:

> Q. And what information did you find out regarding Moncasa's relationship, if any, with these hoteliers?
>
> A. Through the course of my investigation, I had communication with persons at the Ritz-Carlton, with Raffles, with Starwood Hotels & Resorts, with Westin, and I learned that Moncasa Capital had no business involvement with those hoteliers. I learned that Moncasa Capital had no authorization to use their logos with respect to those hoteliers.
>
> Q. What about the islands that are also streaming through the bottom of the website, are you aware whether Moncasa had any properties on those islands?
>
> A. I noted they are very prestigious tourist destinations, Barbados, the Cayman Islands, these sort of places, and it's known to me that Moncasa had no properties or interests in those islands.
>
> (Transcript, Jan. 22, 2013, testimony of Gallacher, p. 284, lines 6-25)

[100] The evidence received from investors made it clear that they were told and believed that Moncasa owned more property than it actually did when they invested in the company and this was based on Moncasa's corporate and promotional materials and website:

- Some investors believed that Moncasa already had an extensive real estate portfolio.
- After multiple conversations with Collins and a review of some of Moncasa's marketing materials, L.M. understood that Moncasa owned 80 properties in 30 destinations.
- After receiving Moncasa's Investor Update dated March 30, 2009, which stated "properties are on stream now and ready for use", J.M. understood that Moncasa had purchased properties in the Caribbean and that these properties were ready to be sold or used as a timeshare for the club.
- After receiving an email from Collins stating that he had "brought the family down to check out some of Moncasa's properties", C.H. understood that Moncasa owned multiple properties in the Caribbean.
- Some investors reported receiving emails that "made it sound like [Moncasa] owned several properties and they were buying some more".

[101] An example of one of Moncasa's misleading promotional materials is a press release, dated September 26, 2008, which was posted on www.moncasacapital.com. The press release states:

> Moncasa and their local knowledge of the Caribbean has been able to source exceptional real estate opportunities creating properties valued at under one million to $3 million. In turn Moncasa has structured the membership to be priced affordably thereby becoming readily attainable to a great many more Canadians.
>
> (Volume 6, Tab 10A, p. 84)

[102] The reality, however, was very different. The only purchase agreement ever signed by Collins on behalf of Moncasa on June 9, 2008, reflects Moncasa as the purchaser of the right to use and enjoy a "One Bedroom Grand Bungalow King" unit for four one-week periods on a recurring annual basis, for the price of USD$69,052.20.

[103] Also, at page 83 of the purchase agreement signed by Collins on behalf of Moncasa, it is stated that: "The Residential Beneficial Interests offered by Seller are for the personal use and enjoyment of Beneficial Owners and are not suitable for investment or intended for resale for profit." (emphasis in original) Moncasa told investors that the property was purchased specifically for investment purposes.

[104] Investors did report relying on the website information to make investments in Moncasa. For example, J.M. testified that he found the Moncasa website persuasive:

> It was very well done. It looked like a very good site. And the writing was excellent. When I look back on it now, it was a real snow job … I mean it was fraudulent … well, I mean, when you read the press releases, I mean, it was – none of it was true, but it was very well written. And if you were interested in participating, it made you feel pretty secure. But certainly after the fact, it was a snow job.
>
> (Transcript, Jan. 24, 2013, testimony of J.M., p. 700, line 25 to p. 701, line 13)

[105] In addition, many of the investors believed that their investment gave them a right to use the Moncasa properties:

- Collins told L.M. that investors could visit the properties and that L.M. could visit the properties by boat because his beliefs prevented air travel.

- Staff also provided documentary evidence showing that some investors believed that:

  (i) they would be able to trade Moncasa shares for membership in the club and the opportunity to vacation at the properties.

  (ii) their investment entitled them to use the Moncasa properties.

  (iii) Moncasa was partnering with Westin and Hilton and investors could rent these properties at reasonable rates. This misrepresentation was supported by the unauthorized display of hotel logos on the Moncasa website and promotional materials.

[106] J.M. asked Collins for a list of Moncasa's property locations and contacts. However, his request was ignored, which is not surprising as the reality was that Moncasa did not own multiple Caribbean properties.

Corporate and financial documentation

[107] Moncasa's financial documentation was misleading and deceitful.

[108] For example, in emails, letters, and subscription agreements, Moncasa represented to investors that its shares would be registered with the appropriate authorities. Investor J.M. testified that these representations gave him comfort that "things were proceeding as they should" (Transcript, Jan. 24, 2013, testimony of J.M. p. 687, lines 4-5). However, in a voluntary interview on December 9, 2008, Collins admitted to Registration Staff that Moncasa never contacted securities regulators about the investments (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 62, lines 11-25 to p. 63, lines 1-7).

[109] In addition, Moncasa failed to provide proof of share ownership to its investors. For example, J.M. testified that repeated requests by him for Moncasa share certificates were ignored, and that he only received a share certificate in May 2009, which was one year after his initial investment. Similarly, M.C. (who was under the impression that he and Collins were "equal partners" in Moncasa) testified that he was never provided with proof of share ownership and was not even told how many shares he owned. According to the records of Moncasa's transfer agent, M.C. was the owner of 5,000,000 or 31.359% of Moncasa's shares whereas Collins was the owner of 10,000,000 or 62.366% of Moncasa's shares.

[110] Collins also co-mingled his own personal expenses with Moncasa's business expenses. In his interview with Enforcement Staff on May 5, 2011, Collins admitted that Moncasa paid the charges and expenses incurred on his personal credit card (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 176, lines 19-23).

Aliases

[111] Moncasa allowed one of its salespeople, Da Silva, to use the alias "Jim Wilson" to solicit investments from the public. As a result, investors did not actually know who they were really dealing with, specifically in this case, Da Silva who is a recidivist boiler room operator.

[112] Da Silva used this alias when contacting investors by telephone or email. At least 14 Moncasa investors dealt with Da Silva under his assumed alias. They purchased in excess of $220,000 worth of shares (R v. Da Silva, supra at para. 3).

[113] S.I testified that he also heard Da Silva refer to himself by another alias, "Samuel", when he was on the phone.

High pressure sales tactics

[114] Moncasa's salespeople used aggressive and high pressure sales tactics to solicit money from investors.

[115] S.I. testified that Moncasa's salespeople "were always driven to get the biggest and get a lot, you know, be rewarded type of thing" (Transcript, Jan. 22, 2013, testimony of S.I., p. 378, lines 23-25). He described the typical sales pitch as:

> You've got to get on board. There's limited space. It's like this club. You've got to invest in it. Get to use. So how much do you want to give, type of thing.
>
> (Transcript, Jan. 22, 2013, testimony of S.I., p. 386, line 23 to p. 387, line 1).

[116] In responding to Enforcement Staff's "Moncasa Capital Corp. Investor Questionnaire", one Moncasa investor stated that he "felt very pressured" and that he was told that he "should get on board before it's over".

[117] All three of the investors who testified at the hearing on the merits reported that high pressure sales tactics were used in order to induce them to invest. These tactics included misrepresentations about price appreciation, preferential share prices, future public listing of Moncasa's shares, and the speed with which Moncasa shares were being sold. For example:

- J.M. testified that he was told that his shares would be sold to other investors at a higher price and that the price of the shares could double in value (Transcript, Jan. 24, 2013, testimony of J.M., p. 679, lines 2-17).
- C.H. testified that was told that he would be able to sell half of his shares very quickly and recoup his initial investment (Transcript, Jan. 24, 2013, testimony of C.H., p. 766, p. 21-25).
- L.M. testified that he was told that Collins was selling him shares at a lower price out of his own holdings (Transcript, Jan. 23, 2013, testimony of L.M., p. 614, line 14 to p. 615, line 2).
- C.H. testified that, based on Collins' representations to him, he understood that Moncasa would be making a public offering of shares (Transcript, Jan. 24, 2013, testimony of C.H., p. 774, p. 16-24).
- J.M. testified that he was told that if he did not invest in a hurry then he "might not be able to get in on it" (Transcript, Jan. 24, 2013, testimony of J.M., p. 706, p. 19-25).

[118] None of the above representations was true. First, J.M. testified that he never saw any return on his investment (Transcript, Jan. 24, 2013, testimony of J.M., p. 731, lines 6-7). Second, C.H. testified that Moncasa never gave him the opportunity to sell his shares (Transcript, Jan. 24, 2013, testimony C.H., p. 776, lines 22-24). Third, M.C. testified that Collins told him that offering shares for reduced prices was "all about raising more money" (Transcript, Jan. 22, 2013, testimony of M.C., p. 442, lines 20-21). Fourth, there is no record of a public offering of Moncasa's shares. And fifth, J.M. testified that Moncasa urged him to make further investments (Transcript, Jan. 24, 2013, testimony of J.M., p. 711, lines 13-17).

Conclusion

[119] Investors relied on the false and fabricated information about Moncasa and its business activities when deciding whether to invest in the company. When Moncasa's activities are looked at as a whole, we find that the following facts are indicators that fraud was taking place: existence of false information in corporate documents, press releases and marketing and promotional materials; lack of financial documentation and failure to provide company and financial information to investors; the use of aliases; and the use of high pressure sales tactics to coerce investors to invest and to increase their investment. These fraudulent acts caused deprivation to investors. Through the investment scheme, Moncasa raised a total of approximately $1,200,000 from investors. I note that these investors lost their funds and were not paid back.

[120] For a corporate respondent, it is sufficient to show that its directing mind knew or reasonably ought to have known that the acts of the corporation perpetrated a fraud to prove a breach of section 126.1(b). As discussed below, Collins controlled Moncasa and was its directing mind. In addition, the evidence before me demonstrates that Collins interacted with investors and his actions perpetrated Moncasa's fraud.

[121] I conclude that Moncasa engaged in fraud and breached section 126.1(b) of the Act. I further find that such contraventions were contrary to the public interest.

Collins

[122] I find that Collins engaged in many acts of deceit, falsehoods and other fraudulent means that deprived investors of their funds.

Website biography of Collins

[123] Collins was ultimately responsible for what appeared on Moncasa's website. Unfortunately for investors, what appeared on the website was often riddled with misrepresentations. This includes Collins' biography, which was exaggerated, misleading and false. During his December 9, 2008 interview with Registration Staff, Collins admitted that:

- The website reference to Collins' "20 years" of experience in the real estate market refers to his personal real estate investments (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 18, line 6 to p. 19, line 7);

- The website refers to Collins receiving "several industry recognition awards for sales achievements", but, when questioned by Registration Staff about this statement, he could not recall a specific award or how many awards he received (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 19, lines 12-21);

- The website statement that "[Collins'] private equity background spans many industries" refers to family-related business dealings (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 26, line 9 to p. 27, line 5); and

- Collins' only example of being employed by a company engaged in private equity was "raising money for Limelight" (which was a boiler room operation sanctioned by the Commission) (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 27, line 17 to p. 29, line 1).

[124] As stated previously, investors relied on the website when deciding whether to purchase shares in Moncasa. One such investor, J.M., testified that the representations on the website made him "feel pretty secure" about investing (Transcript, Jan. 24, 2013, testimony of J.M., p. 701, line 12). I doubt that investors like J.M. would have expressed such sentiments had they been aware of the website's numerous falsehoods, including those contained in Collins' biography.

Press releases sent by Collins

[125] The press releases that Collins sent to investors contained untruths.

[126] J.M. testified that, after investing $50,000 in Moncasa, Collins sent him numerous press releases in an attempt to solicit further funds. For example, Collins mailed J.M. a press release in which he declared that Moncasa will have "properties across St. Lucia, Grand Cayman, and Turks and Caicos […] completed for occupancy through the early part of 2010". As stated previously, Collins and Moncasa never took concrete steps to secure properties in any of these destinations.

[127] Also, C.H. testified that Collins emailed him a press release, dated August 31, 2009, which contained the following words in bold: "Attention Shareholders: Moncasa Capital to Raise $6 million issuing 2 million shares at $3.00 per share". The reality was that Moncasa only raised $551,540 after August 31, 2009.

[128] Further, both J.M. and C.H. testified that they reviewed a press release, titled "Moncasa Private Club Residences now launched in Toronto", which contained numerous falsehoods. The press release was posted on Moncasa's website and identified Collins as Moncasa' president and contact person and, among its many untruths, stated that:

> Moncasa and their local knowledge of the Caribbean has been able to source exceptional real estate opportunities creating properties valued at under one million to $3 million.
>
> (Volume 6, Tab 10A, p. 84)

[129] As has been discussed above, these statements were false.

[130] This evidence demonstrates that Collins was willing to deceive investors in order to obtain their money.

Collins' personal use of investor funds

[131] Collins misappropriated investor funds.

[132] Staff's senior forensic accountant, Chak, testified that her analysis of Moncasa's banking records showed that Collins withdrew $340,116.88 worth of personal expenses from Moncasa's business account. Chak calculated the personal expenses of Collins as follows:

Granite Capital Investments – net	$43,042.14
Credit card – MBNA	$23,000.00
Credit card – Citibank	$96,389.00
Credit card – TD	$2,050.00
Drawings for John Collins	$178,269.04
Drawings for Diane Collins (Collins' wife)	$6,505.07
Apparent personal expenses	$25,798.90
	$375,054.15
Possible office expenses in Citibank credit card account	$34,937.27
Total Personal Expenses	$340,116.88

(Exhibit 67 – Volume 12, Tab 10)

[133] According to Collins' own admission to Enforcement Staff, the only source of income for the Moncasa business account was investor funds (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 170, lines 7-9). Collins also admitted that he had sole signing authority for the account and that he was responsible for all of the transactions in the account (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 169, lines 18-23).

[134] Some examples of expenses that Chak categorized as "apparent personal expenses" include payments made to: Golden Fitness, LCBO, BMW, Bruno's Meats, Metro, Canadian Tire, and Chapters.

[135] Even if I deduct the $12,343.36 of expenses (charged to Collins' Citibank credit card) relating to travel, meals, and lodging in the Caribbean (i.e. those expenses that might arguably relate to Moncasa's "business" of "acquiring luxury real estate homes"), I still arrive at a personal expense total for Collins of $327,773.52. This revised figure of $327,773.52 represents a misappropriation for personal use of 26.6% of the $1,231,800 raised from investors. With the exception of the USD $69,052.20 payment for the right to use a single property in the Dominican Republic for four one-week periods annually, the remaining investor funds were used to further the activities of the Moncasa boiler room operation. These disbursements included payments related to the rental of office space, office expenses, legal fees, and the commissions or salaries of Moncasa's salespeople.

Collins' dealings with investors

[136] Collins's dealings with investors were deceitful and fraudulent.

[137] In an attempt to further his investment scheme, Collins offered some Moncasa investors shares at lower prices. For example, L.M. testified that because he had "been investing so much [Collins] gave [him] some of [Collins'] own shares at a reduced price." (Transcript, Jan. 23, 2013, testimony of L.M., p. 615, lines 1-2). However, the reality was that L.M. did not receive anything that resembled a share price "discount" or "reduction". Rather, the price per share was whatever Collins wanted it to be.

[138] M.C. testified that he inadvertently learned that shares were being sold at lower prices and that he did not understand how this could occur when there was a subscription agreement in place at a certain price. When M.C. confronted Collins about this, Collins explained that it was all about raising more money and told him that "everything is ok" (Transcript, Jan. 22, 2013, testimony of M.C., p. 442, lines 19-21). Collins did not show M.C. any paperwork to support these further offerings.

[139] Invariably, after realizing the fraudulent nature of Moncasa, many investors tried to redeem their shares. However, their attempts were stonewalled by Collins.

[140] C.H. testified that, despite repeatedly contacting Collins in order to try and sell his shares, he never was able to sell (Transcript, Jan. 24, 2013, testimony of C.H., p. 776, lines 9-24). J.M. testified that he never got a return on his $50,000 investment and that Collins ignored him when J.M. requested to redeem his shares (Transcript, Jan. 24, 2013, testimony of J.M. p. 728, line 16 to p. 729, line 3 and p. 731, lines 6-7). L.M. testified that he told Collins that he needed to redeem part of his investment to pay for his 40th wedding anniversary but noted that "we're almost two years over that and I haven't seen anything yet." (Transcript, Jan. 23, 2013, testimony of L.M., p. 620, line 22 to p. 621, line 1).

[141] In light of the foregoing, it is no surprise that the three investors who testified at the hearing on the merits described Collins in the following ways:

> Investor L.M.
>
> Well, I guess if I had to give [Collins] a nickname, it would be Pry Bar […] He can pry the money right out of you.
>
> (Transcript, Jan. 23, 2013, testimony of L.M., p. 630, lines 15-19)
>
> Investor J.M.
>
> He is one of the best snowmen I've ever met. He is pretty smooth.
>
> (Transcript, Jan. 24, 2013, testimony of J.M., p. 732, lines 12-13)
>
> Well, he is like a schemer. He knows how to put things together and, you know, take your money away.
>
> (Transcript, Jan. 24, 2013, testimony of J.M., p. 733, lines 6-8)
>
> Investor C.H.
>
> He will be judged later.
>
> (Transcript, Jan. 24, 2013, testimony of C.H., p. 777, lines 17-18)

Conclusion

[142] Collins' falsehoods helped Moncasa raise $1,231,800 from investors, none of which has been returned. At least $327,773.52 of the $1,231,800 was misappropriated by Collins for his personal expenses, while the remaining funds were used to pay salaries and commissions of Moncasa's salepersons and used to pay Moncasa's operating costs, apart from the use of 6% to buy the one four-week interest in one vacation property.

[143] I therefore conclude that Collins engaged in a fraud and breached section 126.1(b) of the Act. I further find that such contraventions were contrary to the public interest.

iii. Findings

[144] The investment scheme perpetrated by Moncasa and Collins was fraudulent.

[145] Moncasa misled investors by making false statements regarding its financial affairs and business activities. Investors were deprived of their funds as a result of false and misleading statements. Moncasa also deceived investors by allowing its salespeople to use aliases and to engage in high pressure sales tactics.

[146] Collins deceived investors by misrepresenting his qualifications, expertise, and experience and Moncasa's business activities and use of funds. Collins also misled investors by representing to them that Moncasa operated a successful and growing business. Investors were deprived of their funds as a result of false and misleading statements. Furthermore, Collins misappropriated investor funds by spending at least $327,773.52 of those funds on personal expenses, and with the exception of the USD $69,052.20 payment for the right to use a single property in the Dominican Republic for four one-week periods annually, the remaining investor funds were used to pay salespeople and to otherwise further the activities of the Moncasa boiler room operation.

[147] I conclude that the Respondents breached section 126.1(b) of the Act and, in so doing, their conduct was contrary to the public interest.

D. DID COLLINS MAKE FALSE AND/OR MISLEADING STATEMENTS TO THE COMMISSION IN BREACH OF SUBSECTION 122(1)(a) OF THE ACT AND CONTRARY TO THE PUBLIC INTEREST?

i. The Applicable Law

[148] Subsection 122(1)(a) prohibits individuals and companies from making misleading, misrepresentational or untrue statements in any material, evidence or information submitted to the Commission, Executive Director or agent of the Commission. Subsection 122(1)(a) states:

> 122(1) Offences, general – Every person or company that,
>
> > (a) makes a statement in any material, evidence or information submitted to the Commission, a Director, any person acting under the authority of the Commission or the Executive Director or any person appointed to make an investigation or examination under this Act that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make that statement not misleading is guilty of an offence and on conviction is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or both.

[149] The importance of providing full and accurate information to the Commission was emphasized by the Ontario Court of Appeal in *Wilder et al v. Ontario Securities Commission,* (2001) 53 O.R. (3d) 519 (C.A.) at paragraph 22:

> The [Commission] is charged with the statutory obligation to do its best to ensure that those involved in the securities industry provide fair and accurate information so that public confidence in the integrity of the capital markets is maintained. It is difficult to imagine anything that could be more important to protecting the integrity than ensuring that those involved in those markets, whether as direct participants or as advisers, provide full and accurate information to the [Commission].

ii. Discussion

Misleading statements regarding ongoing sales of Moncasa's shares

[150] During his voluntary interview with Commission Registration Staff on December 9, 2008, relating to his application to be registered through Tri Palms Equity, Collins advised Staff that he was not "currently selling anything" and that no sales of Moncasa securities had been made between the end of September 2008 and the date of the interview (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 51, lines 20-21; p. 66, line 13 to p. 67, line 6). However, according to Staff's analysis, further investor funds were deposited into Moncasa's bank account between October 8, 2008 and November 25, 2008 from five new investors, totalling approximately $76,000.

Misleading statements regarding the role of Moncasa's salespeople

[151] Collins misled both Commission Registration Staff and Enforcement Staff as to the true nature of the role of Moncasa's salespeople. He claimed that the salespeople were tasked with developing relationships with tourism and government officials in countries in the Caribbean and he minimized the extent to which they interacted with investors (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 34, line 20 to p. 35, line 10; p. 36, lines 13-23; p. 55, line 22 to p. 56, line 8 and Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 47, lines 4-10; p. 57, lines 7-15).

[152] These assertions, however, were contradicted by the following admissions made by Collins to Commission Enforcement Staff:

- Salespersons J.B. and P.P. "spoke to investors and introduced investors into the company" (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 44, lines 17-25);
- Salespersons J.B., P.P., and Da Silva and Collins participated in the sale of shares of Moncasa (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 72, lines 5-9); and
- Salespersons Da Silva, J.B. and P.P each brought in approximately 10 to 12 investors (Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 223, lines 14-17).

[153] In addition, during a voluntary interview with Enforcement Staff on March 22, 2011, J.B. described how he would send information packages to people who had expressed an interest in investing in Moncasa and that he would "follow up with

[potential investors] quite a bit to see what their interest [level] was […]" (Transcript, March 22, 2011, voluntary interview of J.B. with Commission Enforcement Staff, p. 61, line 18 to p. 62, line 11).

[154] The evidence before me demonstrates that Collins and Moncasa salespeople interacted with investors, contrary to Collins' statements to Registration and Enforcement Staff.

Misleading statements regarding commissions paid to Moncasa's salespeople

[155] Collins misled Enforcement Staff regarding whether Moncasa paid commissions to its salespeople. During Collins' compelled interview on May 5, 2011, Staff asked Collins several times about how the salespeople were compensated and each time Collins consistently and categorically denied paying the salespeople commissions or any similar payment tied to the selling of securities. Specifically, Collins responded to one sequence of Staff's questions in the following way:

Q. Okay. And what was [P.P.'s] compensation arrangement?

A. He got paid on a biweekly basis depending on the number of days or hours that he could afford to work.

Q. Okay. And was he a salary employee then?

A. Yes. Yes.

Q. Okay. Did he make – you indicated that he did some sales. Was he – did he receive commissions?

A. No.

(Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 45, lines 11-20)

Q. So, skipping back to [J.B.] then, what was his compensation arrangement?

A. Same as [P.P].

Q. $500 a week?

A. If we had it.

Q. What if you didn't have it?

A. They didn't get paid.

Q. Was he ever paid commissions for sales?

A. No.

(Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 48, lines 2-10)

[156] In addition, later in that same interview, Collins repeatedly took the position that commissions were not paid to employees:

Q. Okay. And did [Da Silva] receive any compensation for the sale of shares to any –

A. No.

Q. – of these people?

A. No.

Q. No finder's fees?

A. No.

Q. Was any finder's fees or any compensation over and above their weekly -- I know you're shaking you're head, let me finish just so I'm sure –

A. Yes.

Q. – [J.B.], [P.P], [Da Silva], none of them received any compensation for performance. I found a new investor. Do I get a 10 percent, a 5 percent, any percent as a bonus, as a finder's fee, as a compensation or commission?

A. No. (emphasis added)

(Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 61, line 14 to p. 62, line 5)

[157] However, the evidence presented by Staff refutes Collins' denials. For example, J.B. told Enforcement Staff that he was paid a percentage commission on each Moncasa investment that he sold. J.B. stated that the commission payment "started at around ten percent but … as things developed it went actually down to five percent." (Transcript, March 22, 2011, voluntary interview of J.B. before Commission Enforcement Staff, p. 27, lines 18-20). In addition, M.C. testified that both P.P. and Da Silva told him that they were compensated with commission (Transcript, January 22, 2013, testimony of M.C., p. 422, lines 8-15).

Misleading statements regarding Collins' relationship with Abel Da Silva

[158] Collins misled Enforcement Staff regarding his pre-existing relationship with one of Moncasa's salespeople, Da Silva. Da Silva is a well-known recidivist boiler room salesperson who was the subject of three separate Cease Trade Orders issued by the Commission and in force at the time he was employed by Moncasa (R v. Da Silva, supra at para. 5).

[159] During his compelled interviews with Enforcement Staff, Collins identified a photograph of Da Silva as "Jim Wilson" (which was the alias that Da Silva used while employed by Moncasa) (Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 219, lines 7-13) and told Enforcement Staff that:

- he had never met "Wilson" before "Wilson" arrived at the Moncasa office looking for work (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 55, lines 1-17 and Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 219, lines 14-19).
- he did not know where "Wilson" worked before (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 58, lines 12-15);
- he never met "Wilson" outside of work (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 67, lines 3-4);
- he did not know where "Wilson" lived and he was never given an address (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 67, lines 17-20); and
- "Wilson's" nickname was "Abel" or "Abe" (Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 217, line 21 to p. 218, line 6).

[160] Contrary to what Collins told Enforcement Staff, both S.I. and M.C. testified that Collins and Da Silva had a pre-existing relationship.

Q. Okay. Did [Abel] have a previous relationship with John?

A. That I believe so.

Q. Why is that?

A. **Because John knew him. He said, I know this guy.** He is going to be coming in and helping us.

(Transcript, Jan. 22, 2013, testimony of S.I., p. 382, lines 14-24) (emphasis added)

Q. Okay. Can you tell me, did anyone in the office – did John know him as Abel, John Collins?

A. Yes.

Q. Okay. Did he at a certain point ask not to be called Abel?

A. Yeah.

(Transcript, Jan. 22, 2013, testimony of S.I., p. 383, lines 12-18)

Q. And why was it your belief that Mr. Collins knew him as Abel?

A. Sorry, say that again.

Q. Well, I think before I asked you did Mr. Collins know him as Abel.

A. Yes.

Q. And I guess my question is why you had that impression.

A. **Because they were friends from what I knew …**

(Transcript, Jan. 22, 2013, testimony of S.I., p. 384, lines 2-11) (emphasis added)

Q. And before you mentioned a Jim Wilson. To your knowledge, how did he come to begin working at Moncasa?

A. John hired him through past – I was under the impression they had worked together before.

(Transcript, Jan. 22, 2013, testimony of M.C., p. 423, lines 8-13)

Q. Did Abel or, sorry, did Jim Wilson go through an interview process that you are aware of or how was he hired?

A. He just showed up one day and John said – he introduced us to him and that was it, you know.

(Transcript, Jan. 22, 2013, testimony of M.C., p. 423, lines 20-25)

Misleading statements regarding Moncasa's previous relationship to its investors

[161] Collins misled both Commission Registration Staff and Enforcement Staff by stating during interviews that the investors in Moncasa were himself, family, friends, and past business associates (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 42, lines 19-22; p. 53, lines 8-12; p. 54, lines 12-20; Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 43, lines 9-13; and Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 205, line 25 to p. 206, lines 1-3).

[162] With respect to one particular investor, Collins testified that "C.H. has dealt with [Collins] in the past", through a referral, possibly from J.B. (Transcript, May 5, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 94, lines 5-14). However, C.H. testified that he was cold-called and had no previous relationship with anyone at Moncasa (Transcript, Jan. 24, 2013, testimony of C.H., p. 745, lines 1-17).

iii. Findings

[163] Based on the conduct described above, I find that Collins breached subsection 122(1)(a) of the Act and acted contrary to the public interest by:

(i) making false and misleading statements to the Commission in a voluntary interview held before Commission Registration Staff on December 9, 2008; and

(ii) making false and misleading statements to the Commission in compelled interviews held before Commission Enforcement Staff on May 5, 2011 and May 25, 2011.

E. DID COLLINS AUTHORIZE, PERMIT OR ACQUIESCE IN BREACHES OF SECTIONS 25(1)(a) (DURING THE TIME PERIOD FROM APRIL 1, 2008 TO SEPTEMBER 27, 2009), 25(1) (DURING THE TIME PERIOD FROM SEPTEMBER 28, 2009 TO MAY 16, 2011), 53(1) AND 126.1(b) OF THE ACT BY MONCASA, SUCH THAT HE IS DEEMED TO ALSO HAVE NOT COMPLIED WITH ONTARIO SECURITIES LAW, PURSUANT TO SECTION 129.2 OF THE ACT?

i. The Applicable Law

[164] Pursuant to section 129.2 of the Act, a director or officer of a company is deemed to be liable for a breach of securities law by the company where the director or officer authorized, permitted or acquiesced in the company's non-compliance with the Act. Specifically, section 129.2 states:

> 129.2 For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127.

[165] For an individual respondent to be held liable under section 129.2, Staff must establish (i) that the individual respondent was a "director or officer" of a company, (ii) that the company has not complied with Ontario securities law, and (iii) that the individual respondent "authorized, permitted or acquiesced in" the non-compliance.

[166] In subsection 1(1) of the Act, a "director" is defined as "a director of a company or an individual performing a similar function or occupying a similar position for any person" and an "officer" is defined as:

(a) a chair or vice-chair of the board of directors, a chief executive officer, a chief operating officer, a chief financial officer, a president, a vice-president, a secretary, an assistant secretary, a treasurer, an assistant treasurer and a general manager,

(b) every individual who is designated as an officer under a by-law or similar authority of the registrant or issuer, and

(c) every individual who performs functions similar to those normally performed by an individual referred to in clause (a) or (b).

[167] The leading decision on the meaning of "authorized, permitted or acquiesced in" is Momentas:

> Although these terms have been interpreted to include some form of knowledge or intention, the threshold for liability under section 122 and 129.2 is a low one, as merely acquiescing [in] the conduct or activity in question will satisfy the requirement of liability. The degree of knowledge of intention found in each of the terms "authorize", "permit" and "acquiesce" varies significantly. "Acquiesce" means to agree or consent quietly without protest. "Permit" means to allow, consent, tolerate, give permission, particularly in writing. "Authorize" means to give official approval or permission, to give power or authority or to give justification.
>
> (*Momentas, supra* at para. 118)

ii. Discussion

Collins was the president and sole director of Moncasa

[168] Collins admitted to Commission Registration Staff that he was Moncasa's president (Transcript, Dec. 9, 2008, voluntary interview of Collins before Commission Registration Staff, p. 13, lines 17-20; p. 34, lines 3-6). Collins also represented himself as Moncasa's president in numerous emails to investors. As well, Gallacher testified that, according to a Corporation Profile Report from November 23, 2010, Collins was the sole director of Moncasa (Transcript, Jan. 21, 2013, testimony of Gallacher, p. 77, line 14 to p. 78, line 4).

Collins was the majority shareholder in Moncasa

[169] Collins was also a controlling shareholder of Moncasa. According to the List of Security Holders provided by Equity Transfer, Collins owned the majority of Moncasa's shares. As at April 7, 2011, the shareholdings of Moncasa were as follows:

Shareholder	Number of Shares	% of outstanding shares
John Collins	10,000,000	62.366%
M.C.	5,000,000	31.183%
57 Other Shareholders	1,034,250	6.451%
TOTAL	16,034,250	100%

(Transcript, May 25, 2011, compelled interview of Collins before Commission Enforcement Staff, p. 286, line 22 to p. 287, line 6; p. 288, line 5 to p. 289, line 9; Transcript, Jan. 21, 2013, testimony of Gallacher, p. 222, line 1 to p. 223, line 17; and Volume 4, Tab 10, pp. 321-326).

Collins' conduct

[170] As set out above in paragraphs 61 to 64 of these Reasons, Collins was the mind and management behind Moncasa's actions. By creating the Moncasa websites, soliciting investors on behalf of Moncasa, by hiring and supervising Moncasa's salespersons and by signing documents on behalf of Moncasa, he permitted and authorized Moncasa's conduct and made Moncasa's actions possible.

iii. Findings

[171] Collins' actions as president, sole director, and controlling shareholder demonstrate that he was the mind and management behind Moncasa's misconduct. He admitted he was Moncasa's president, signed documents on behalf of Moncasa as its president, corresponded with investors using the title "President" of Moncasa to solicit investor funds, and was the owner of Moncasa's websites, which were used as a marketing tool to attract investors. In addition, the conduct and evidence establishing that Collins acted as Moncasa's mind and management is set out at paragraphs 61 to 64 of these Reasons. Collins was responsible for all decisions made at Moncasa.

[172] As Moncasa's president and sole director, Collins is ultimately responsible for the conduct of Moncasa, its representatives, agents, and employees. There is ample evidence for me to find not only that Collins participated directly, but that Collins authorized, permitted or acquiesced in Moncasa's non-compliance with subsections 25(1)(a), during the time period from April 1, 2008 to September 27, 2009, 25(1), during the time period from September 28, 2009 to May 16, 2011, 53(1), and 126.1(b) of the Act.

[173] As a result, I find that Collins is deemed to also have not complied with Ontario securities law, pursuant to section 129.2 of the Act.

6. CONCLUSION

[174] For the reasons stated above I find that:

(a) Moncasa and Collins breached subsection 25(1)(a) of the Act during the time period from April 1, 2008 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to May 16, 2011;

(b) Moncasa and Collins breached subsection 53(1) of the Act;

(c) there were no exemptions available to either Moncasa or Collins;

(e) Moncasa and Collins breached section 126.1(b) of the Act;

(f) Collins breached subsection 122(1)(a) of the Act;

(g) pursuant to section 129.2 of the Act, Collins is deemed to have not complied with Ontario securities law, having authorized or permitted Moncasa's breaches of subsections 25(1)(a) during the time period from April

1, 2008 to September 27, 2009 and 25(1) during the time period from September 28, 2009 to May 16, 2011, 53(1) and 126.1(b) of the Act; and

(h) Moncasa and Collins acted contrary to the public interest.

[175] An order will be issued as follows:

1. Staff shall serve and file written submissions on sanctions and costs by 4:00 p.m. on June 7, 2013;

2. The Respondents shall serve and file responding written submissions on sanctions and costs by 4:00 p.m. on June 21, 2013;

3. Staff shall serve and file reply written submissions on sanctions and costs (if any) by 4:00 p.m. on June 28, 2013;

4. the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, ON, on July 11, 2013, at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and

5. upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party, and such party is not entitled to any further notice of the proceeding.

Dated at Toronto this 17th day of May, 2013.

"Edward P. Kerwin"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Acadian Energy Inc.	06 May 13	17 May 13	17 May 13	
PharmaGap Inc.	06 May 13	17 May 13	17 May 13	
Intellectual Capital Group	06 May 13	17 May 13	17 May 13	
Forterra Environmental Corp.	16 May 13	28 May 13		
Gold World Resources Inc.	15 May 13	27 May 13		
Genesis Worldwide Inc.	15 May 13	27 May 13		

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
dynaCERT Inc.	07 May 13	17 May 13	17 May 13		

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
ProSep Inc.	17 Apr 13	29 Apr 13	29 Apr 13		
Northland Resources S.A.	05 Apr 13	17 Apr 13	17 Apr 13		
dynaCERT Inc.	07 May 13	17 May 13	17 May 13		
Argentium Resources Inc.	13 May 13	24 May 13			
Mint Technology	13 May 13	24 May 13			

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service 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
04/26/2013	4	1615748 Alberta Ltd. - Common Shares	800,000.13	566,008.00
04/26/2013	2	360 VOX Corporation - Units	9,500,000.00	9,500.00
04/10/2013	2	AAR Corp. - Notes	3,329,022.38	3,050.99
04/01/2013	1	Accutrac Capital Solutions Inc. - Preferred Shares	100,000.00	100.00
03/31/2013	81	ACM Commercial Mortgage Fund - Units	4,574,641.67	N/A
04/25/2013	3	Affinia Group Inc. - Notes	2,803,350.00	3.00
04/29/2013	82	AGCAPITA FARMLAND FUND III - Units	1,655,210.00	82.00
04/25/2013	1	AgriMarine Holdings Inc. - Notes	5,000,000.00	1.00
04/23/2013	20	Alexco Resource Corp. - Flow-Through Shares	7,035,000.00	2,100,000.00
04/16/2013	1	American Builders & Contractors Supply Co; Inc. - Note	2,046,000.00	1.00
04/19/2013	13	Athabasca Uranium Inc. - Units	617,624.98	8,823,214.00
02/28/2013	1	Atrium IX and Atrium IX, LLC - Notes	25,642,500.00	N/A
04/05/2013	2	Avidbiologics Inc. - Preferred Shares	150,000.00	92,024.00
05/01/2013	6	Bentall Kennedy Management (U.S.) G.P. LLC - Units	2.22	2,220.00
05/01/2013	57	Bentall Kennedy Management (U.S.) Limited Partnership - Limited Partnership Units	461,321.00	336,717.00
04/30/2013	6	Bentall kennedy Prime Canadian Property Fund Ltd. - Common Shares	7,054,985.90	6.00
04/19/2013	1	BIOSEV S.A. - Common Shares	86,331,472.11	11,255,733.00
04/19/2013	1	BIOSEV S.A. - Options	1,463,245.29	37,406,609.00
05/01/2013	4	BKCM (U.S.) G.P. LLC - Units	0.72	720.00
05/01/2013	4	BKCM (U.S.) Limited Partnership - Limited Partnership Units	367,430.00	72,000.00
04/25/2013	1	BPCE - Note	15,291,000.00	1.00
04/30/2013	5	Brant Park Phase 2 Inc. - Bonds	255,000.00	5.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/31/2013	4	Bristol Gate US Dividend Growth Fund - Limited Partnership Units	1,783,383.00	12,477.95
01/31/2013	1	Bristol Gate US Dividend Growth Fund LP - Limited Partnership Units	515,700.00	3,440.24
04/17/2013	2	Caesarstone Sdot-Yam Ltd. - Common Shares	2,386,000.00	100,000.00
04/18/2013	14	Canada Fluorspar Inc. - Flow-Through Units	350,000.10	1,166,667.00
02/28/2013	2	Canada Mortgage Investment Corporation - Preferred Shares	20,000.00	N/A
04/17/2013	54	Canadian Energy Services & Technology Corp. - Notes	225,000,000.00	54.00
05/01/2013	24	Canadian International Oil Corp. - Units	73,875,000.00	75,000.00
03/01/2013	16	Capital Direct I Income Trust - Trust Units	1,319,989.11	131,998.91
03/08/2013	25	CareVest Blended MIC Fund Inc. - Preferred Shares	367,727.00	N/A
03/08/2013	8	CareVest First MIC Fund Inc. - Preferred Shares	117,825.00	N/A
05/09/2013	1	Caribou King Resources Ltd. - Common Shares	15,000.00	300,000.00
04/19/2013	5	CCO Holdings, LLC and CCO Holdings Capital Corp. - Notes	29,237,004.00	28,485.00
05/07/2013	2	Century Communities, Inc. - Common Shares	11,055,000.00	12,075,000.00
04/17/2013	12	CHC Student Housing Limited Partnership - Limited Partnership Units	2,700,000.00	2,700.00
04/10/2013	1	Chieftain Metals Corp. - Common Share	1.00	1.00
03/18/2013	1	CHY Fund - Trust Units	2,604,313.51	284,894.76
03/21/2013	3	Corrections Corporation of America - Notes	7,168,700.00	7,000.00
05/01/2013	7	CST Brands, Inc. - Notes	15,402,500.00	15,250.00
04/05/2013	3	Dish DBS Corporation - Notes	99,871,800.00	3.00
01/25/2013	1	DW Healthcare Partners III (B) L.P. - Limited Partnership Interest	2,620,280.00	2,600,000.00
04/18/2013	8	Earth Video Camera Inc. - Units	784,890.25	424,265.00
04/15/2013	7	East Coast Energy Inc. - Units	128,800.00	184,000.00
04/10/2013	16	Ecuador Bancorp Inc. - Common Shares	80,000.00	800,000.00
02/26/2013	1	EnerTech Capital Partners IV, L.P. - Limited Partnership Interest	5,140,000.00	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/17/2013	1	EVERTEC, Inc. - Common Shares	718,200.00	35,000.00
04/08/2013	5	FedEx Corporation - Notes	20,342,276.94	19,981.00
05/03/2013	1	Ferrum Americas Mining Inc. - Common Shares	250,000.00	1,666,666.00
04/12/2013	23	Fiera Properties CORE Fund LP - Limited Partnership Units	50,000,002.00	50,000.00
04/10/2013	2	First Data Corporation - Notes	3,045,000.00	3,000.00
02/28/2013 to 03/08/2013	158	Fisgard Capital Corporation - Common Shares	458,659.19	N/A
06/30/2012	1	Fortress Gotham 2011 Limited - Loan	150,000.00	1.00
12/10/0211	1	Fortress Gotham 2011 Limited - Note	100,000.00	1.00
02/25/2012 to 02/27/2012	3	Fortress King Charlotte 2010 Limited - Notes	100,000.00	3.00
05/21/2012	1	Fortress King Charlotte 2010 Limited - Note	50,000.00	1.00
07/31/2012	2	Fortress King Charlotte 2010 Limited - Notes	250,000.00	2.00
04/26/2013	3	FREO Investor Offshore, L.P. - Limited Partnership Interest	178,839,450.00	3.00
02/28/2013	7	Georgian Capital Partners Corporation - Limited Partnership Units	5,108,000.00	51,080.00
02/28/2013	13	Ginkgo Mortgage Investment Corporation - Preferred Shares	624,420.00	62,442.00
02/15/2013	1	Golden Share Mining Corporation - Common Shares	27,500.00	550,000.00
04/10/2013	1	Greybrook Ordnance Limited Partnership - Units	1,000,000.00	10,000.00
04/26/2013	3	Habanero Resources Inc. - Flow-Through Units	39,250.00	2,616,667.00
04/26/2013	30	Habanero Resources Inc. - Non-Flow Through Units	257,500.00	27,750,000.00
03/22/2013	5	Hawk Acquisition Sub, Inc. - Notes	129,857,500.00	5.00
04/12/2013	5	Hecla Mining Company - Notes	8,610,859.80	5.00
04/15/2013	1	Hitlab Inc. - Units	50,000.00	1.00
02/28/2013	1	Imperial Capital Partners Ltd. - Capital Commitment	5,000,000.00	N/A
04/30/2013	4	Intertainment Media Inc. - Units	100,000.00	100.00
05/01/2013	3	JPMorgan Chase & Co. - Notes	30,590,731.64	3.00

Transaction Date		No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/24/2013		2	Kansas City Southern de Mexico, S.A. de C.V. - Notes	2,431,450.83	2,370.00
03/15/2013		2	Kingwest High Income Fund - Units	160,000.00	26,301.08
03/05/2013		1	Kingwest US Equity Portfolio - Units	101,915.17	5,819.40
02/28/2013		15	Kootenay Energy RSP Fund - Units	838,744.61	N/A
04/26/2013		1	Kootenay Silver Inc. - Units	4,750,000.00	6,250,000.00
03/06/2013 03/13/2013	to	18	KV Mortgage Fund Inc. - Units	1,309,576.80	N/A
04/30/2013		44	League Investment Fund Ltd. - Units	1,479,000.00	1,479.00
04/08/2013		137	LIVING WELL FUND II, LIMITED PARTNERSHIP - Units	86,683,000.00	137.00
04/22/2013		6	LX VENTURES INC. - Exchangeable Shares	800,000.00	6.00
04/10/2013		1	Mahdia Gold Corp. - Units	1,019,800.00	1,019.80
05/03/2013		1	Manitou Gold Inc. - Common Shares	40,000.00	500,000.00
05/03/2013		14	Marksmen Energy Inc. (Formerly Marksmen Resources Ltd.) - Units	307,765.05	2,051,767.00
04/16/2013		45	MBAC Fertilizer Corp. - Common Shares	50,132,060.00	22,787,300.00
04/29/2013		21	Meadow Bay Gold Corporation - Units	513,000.00	2,530,910.00
05/02/2013		2	Microsoft Corporation - Notes	30,753,150.00	2.00
04/12/2013		20	Mission Ready Services Inc. - Common Shares	785,000.00	20.00
04/25/2013		13	Morgan Stanley & Co. LLC - Notes	102,660,248.38	13.00
05/01/2013 05/09/2013	to	2	MOVE Trust, BNY Trust company of Canada as trustee - Notes	8,933,817.70	2.00
01/31/2013 02/08/2013	to	14	Newport Balanced Fund - Trust Units	458,932.88	N/A
01/31/2013 02/08/2013	to	41	Newport Canadian Equity Fund - Trust Units	2,029,745.32	N/A
01/31/2013 02/08/2013	to	11	Newport Fixed Income Fund - Trust Units	941,296.87	N/A
01/31/2013 02/08/2013	to	131	Newport Global Equity Fund - Trust Units	8,204,026.45	N/A
01/31/2013 02/08/2013	to	48	Newport Strategic Yield Fund - Trust Units	2,320,160.74	N/A
01/31/2013 02/08/2013	to	37	Newport Yield Fund - Trust Units	1,321,303.24	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
03/31/2013	3	Newstart Financial Inc. - Notes	132,000.00	3.00
04/29/2013	32	North Arrow Minerals Inc. - Common Shares	3,175,000.00	32.00
04/24/2013	50	Pacific Potash Corporation - Units	1,250,000.00	50.00
04/23/2013	4	Pacific Wildcat Resources Corp. - Units	698,999.94	4.00
04/24/2013	1	Pelican Re Ltd. - Notes	2,310,750.00	2,500.00
04/26/2013 to 05/03/2013	10	Perspecsys Inc. - Preferred Shares	10,000,000.07	77,339,521.00
04/15/2013	28	Plazacorp Retail Properties Ltd. - Units	2,315,000.00	2,315,000.00
04/30/2013	2	Prologis, Inc. - Common Shares	1,914,830.00	45,700.00
05/08/2013	2	QIWI plc - American Depository Shares	3,315,000.00	195,000.00
05/03/2013	2	QRS Capital Corp. - Common Shares	105,952.00	1,324,400.00
04/17/2013	5	Rally Software Development Corp. - Common Shares	3,950,870.00	6,900,000.00
03/15/2013 to 03/20/2013	54	Redstone Capital Corporation - Bonds	1,510,600.00	N/A
04/03/2013 to 04/09/2013	10	Redstone Investment Corporation - Notes	419,000.00	N/A
05/02/2013	2	Rent-A-Centre, Inc. - Notes	2,016,600.00	2.00
09/26/2012	1	Revolution Resources Corp. - Common Shares	1,700,000.00	20,000,000.00
04/26/2013	3	Rex Energy Corporation - Notes	12,013,312.50	3.00
05/02/2013	3	Rosetta Resources Inc. - Notes	3,024,900.00	3.00
04/16/2013	1	Royal Bank of Canada - Notes	2,557,500.00	25,000.00
04/15/2013	123	Royal Bank of Canada - Notes	2,653,560.00	26,000.00
04/24/2013	2	SeaWorld Entertainment, Inc. - Common Shares	2,495,700.00	90,000.00
03/18/2013 to 03/25/2013	33	SecureCare Investments Inc. - Bonds	1,185,555.00	N/A
04/17/2013	11	Sensata Technologies B.V. - Notes	2,311,002.40	11.00
04/01/2013	76	Skyline Commercial Real Estate Investment Trust - Units	7,932,020.00	793,202.00
04/18/2013	2	Solutions4CO2 Inc. - Common Shares	480,000.00	3,200,000.00
04/12/2013 to 04/19/2013	4	Souche Holding Inc. - Common Shares	930,294.00	2,075,736.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/16/2013	23	SOUTHEAST ASIA MINING CORP. - Common Shares	48,966.34	23.00
04/12/2013	2	Spire US Limited Partnership - Units	2,160,568.80	19,559.63
04/23/2013	2	Stem Cell Therapeautics Corp. - Common Shares	1,600,000.00	2.00
05/02/2013	11	StickerYou Inc. - Common Shares	409,919.99	740,741.00
04/15/2013 to 04/19/2013	14	Stoney Range Industrial Limited Partnership - Units	411,990.00	411,990.00
05/01/2013	13	Storm Resources Ltd. - Common Shares	5,640,000.00	3,000,000.00
04/16/2013	1	Sustainable Energy Technologies Ltd. - Common Shares	500,000.00	600,000.00
04/02/2013 to 04/04/2013	1	Taipan Resources Inc. - Units	304,859.80	871,028.00
04/12/2013	23	Tantalus Systems Corp. - Preferred Shares	6,289,001.00	209,633,367.00
04/11/2013	1	Taylor Morrison Communities, Inc. and Monarch Communities Inc. - Note	252,675.00	1.00
04/12/2013	4	Taylor Morrison Home Corporation - Common Shares	1,382,277.60	62,000.00
04/30/2013	25	The AES Corporation - Notes	15,809,011.20	25.00
03/12/2013	2	The Fifth Cinven Fund - Limited Partnership Interest	361,287,000.00	270,000,000.00
03/01/2013	17	The Social+Capital Partnership II L.P. - Limited Partnership Interest	46,025,375.00	N/A
02/28/2013	14	The Solidity Group Mortgage Investment Corporation - Common Shares	2,416,600.00	100.00
05/02/2013	1	The Spectranetics Corporation - Common Shares	907,500.00	50,000.00
04/30/2013	3	Transportadora de Gas del Peru S.A. - Notes	24,172,800.00	3.00
02/25/2013	2	Trez Capital Yield Trust US - Trust Units	76,575.00	7,500.00
04/22/2013 to 04/26/2013	25	UBS AG, Jersey Branch - Certificates	14,082,448.16	25.00
04/29/2013 to 05/02/2013	20	UBS AG, Jersey Branch - Certificates	28,149,966.21	20.00
04/15/2013 to 04/19/2013	30	UBS AG, Jersey Branch - Certificates	15,970,332.98	30.00
04/11/2013	21	UBS AG, London Branch - Notes	1,250,000.00	10.00
03/04/2013	1	ValueAct Co-Invest International L.P. - Limited Partnership Interest	241,415,500.00	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/16/2013	4	VeriSign, Inc. - Notes	6,138,000.00	4.00
02/28/2013	73	Vertex Fund - Trust Units	7,520,636.13	N/A
02/28/2013	11	Vertex Managed Value Portfolio - Trust Units	4,110,671.67	N/A
04/15/2013	23	Vital Booker Investors LLC - Units	317,273.89	0.00
05/02/2013	34	Walter CA Highland Ridge LP - Units	1,376,329.50	34.00
04/25/2013	8	Walton AZ Coolidge landing Investment Corporation - Common Shares	186,500.00	8.00
04/30/2013	8	Walton AZ Coolidge Landing Investment Corporation - Common Shares	161,860.00	8.00
04/30/2013	7	Walton AZ Coolidge Landing LP - Units	319,663.04	7.00
04/25/2013	59	Walton CA Highland Falls Investment Corporation - Bonds	1,536,640.00	59.00
04/30/2013	19	Walton CA Highland Falls LP - Units	1,021,536.09	19.00
04/30/2013	12	Walton Income 6 Investment Corporation - Common Shares	390,000.00	12.00
04/25/2013	26	Walton Income 6 Investment Corporation - Notes	1,118,000.00	26.00
04/25/2013	12	Walton U.S. Dollar Income 1 Corporation - Bonds	314,800.32	12.00
04/30/2013	7	Walton U.S. Dollar Income 2 Corporation - Bonds	916,290.00	7.00
04/30/2013	18	Walton U.S. Dollar Income I Corporation - Bonds	404,083.90	18.00
04/23/2013	3	Wells Fargo & Company - Notes	61,640,534.66	3.00
01/25/2013	2	WEX Inc. - Notes	3,023,400.00	3,000.00
04/29/2013	2	WIND Acquisition Finance S.A. - Notes	6,082,800.00	2.00
04/15/2013	20	Winnipeg Airports Authority Inc. - Bonds	100,000,000.00	20.00
02/01/2013	1	York Total Return Unit Trust - Trust Units	99,870.00	99,870.00
05/02/2013	1	Zadar Ventures Ltd. - Common Shares	26,000.00	100,000.00
04/18/2013	1	Zadar Ventures Ltd. - Common Share	28,000.00	100,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AutoCanada Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 17, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
$40,000,000 Treasury Offering - 1,600,000 Common Shares
$75,000,000 Secondary Offering - 3,000,000 Common Shares
Price: $25.00 per Offered Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CLARUS SECURITIES INC.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
GMP SECURITIES L.P.
SCOTIA CAPITAL INC.
HSBC SECURITIES (CANADA) INC.
Promoter(s):
-
Project #2063156

Issuer Name:
RBC Balanced Growth & Income Fund
RBC $U.S. High Yield Bond Fund
RBC Monthly Income High Yield Bond Fund
RBC $U.S. Investment Grade Corporate Bond Fund
RBC QUBE Canadian Equity Fund
RBC QUBE Global Equity Fund
RBC QUBE U.S. Equity Fund
RBC $U.S. Income Fund
RBC U.S. Dividend Fund
RBC Monthly Income Bond Fund
RBC Global Corporate Bond Fund
RBC Global High Yield Bond Fund
RBC QUBE Low Volatility Canadian Equity Fund
RBC QUBE Low Volatility Global Equity Fund
RBC QUBE Low Volatility U.S. Equity Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated May 15, 2013
Receipt dated May 16, 2013
Offering Price and Description:
Series A, Advisor Series, Series D, Series F, Series H, Series I, Series O and Series T5 Units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Royal Mutual Funds Inc.
RBC Direct Investing Inc.
RBC Dominion Securities Inc.
RBC Global Asset Management Inc.
Royal Mutual Funds Inc./RBC Direct Investing Inc.
Royal Mutual Funds Inc.
RBC Dominion Securities Inc.
Royal Mutual Funds Inc./RBD Direct Investing Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2061942

Issuer Name:
Phillips, Hager & North Canadian Equity Value Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated May 16, 2013
Receipt dated May 16, 2013
Offering Price and Description:
Series H and Series I Units
Underwriter(s) or Distributor(s):
Phillips, Hager & North Investment Funds Ltd.
Phillips, Hager & North Investment Funds Ltd.
Promoter(s):
RBC Global Asset Management Inc.
Project #2062510

Issuer Name:
Brookfield Property Partners L.P.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated May 17, 2013
Receipt dated May 17, 2013
Offering Price and Description:
US$2,000,000,000
Limited Partnership Units
Preferred Limited Partnership Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brookfield Asset Management
Project #2063111

Issuer Name:
Canexus Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 17, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
$100,048,000 - 11,840,000 Common Shares
Price: $8.45 per Common Share
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
HSBC SECURITIES (CANADA) INC.
BMO NESBITT BURNS INC.
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
Promoter(s):
-
Project #2063064

Issuer Name:
Capital International - Canadian Core Plus Fixed Income
Capital International - Emerging Markets Total Opportunities
Capital International - Global Equity
Capital International - Growth and Income
Capital International - International Equity
Capital International - U.S. Equity
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated May 14, 2013
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
Series E Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Capital International Asset Management (Canada) Inc.
Project #2060992

Issuer Name:
CC&L Core Income and Growth Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated May 16, 2013
Receipt dated May 17, 2013
Offering Price and Description:
Series A, Series C and Series F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #2062911

Issuer Name:
Dynamic Dividend
Dynamic Corporate Bond Strategies Fund
Dynamic Strategic Global Bond Fund
Dynamic Alternative Yield Fund
Dynamic Dividend Income Class
Dynamic Corporate Bond Strategies Class
Dynamic Power Balanced Class
Dynamic Power Managed Growth Class
Dynamic Income Growth Opportunities Class
Dynamic Dividend Advantage Class
Dynamic Global Asset Allocation Class
Dynamic Global Dividend Class
Dynamic Value Balanced Class
Dynamic Emerging Markets Class
Dynamic Strategic Resource Class
Dynamic Aurion Tactical Balanced Class
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated May 15, 2013 to Final Simplified Prospectuses and Annual Information Forms dated January 30, 2013
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
GCIC Ltd.
Promoter(s):
GCIC Ltd.
Project #1997932

Issuer Name:
Fiera Tactical Bond Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Long Form Prospectus dated May 14, 2013
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
Class A Units and Class F Units
Price: Net Asset Value per Unit
Minimum Purchase: $5,000
Underwriter(s) or Distributor(s):

Promoter(s):
Fierra Capital Corporation
Project #2060634

Issuer Name:
First Capital Realty Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated May 16, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
$1,800,000,000
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2062865

Issuer Name:
Retrocom Mid-Market Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Amendment dated May 17, 2013 to Final Short Form Prospectus dated May 13, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
$50,032,500 - 9,530,000 Subscription Receipts each representing the right to receive one Trust Unit
Price: $5.25 Per Subscription Receipt and $25,000,000 - 5.50% Extendible Convertible Unsecured Subordinated Debentures
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
DESJARDINS SECURITIES INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
DUNDEE SECURITIES LTD.
LAURENTIAN BANK SECURITIES INC.
M PARTNERS INC.
Promoter(s):
-
Project #2056043

Issuer Name:
Timbercreek U.S. Multi-Residential Opportunity Fund #1
Principal Regulator - Ontario
Type and Date:
Amendment dated May 15, 2013 to Final Long Form Prospectus dated April 29, 2013
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
Maximum: C$50,000,000 of Class A Units and/or Class B Units
Price: C$10.57 per Class A Unit and C$10.00 per Class B Unit
Minimum Purchase: 946 Class A Units or 2,000 Class B Units
Underwriter(s) or Distributor(s):
RAYMOND JAMES LTD.
CIBC WORLD MARKETS INC.
GMP SECURITIES L.P.
MANULIFE SECURITIES INCORPORATED
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
SCOTIA CAPITAL INC.
DUNDEE SECURITIES LTD.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
TIMBERCREEK ASSET MANAGEMENT INC.
Project #2041675

Issuer Name:
Eagle Credit Card Trust
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated May 17, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
Up to $1,500,000,000 of Credit Card Receivables-Backed Notes
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
DESJARDINS SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
Promoter(s):
President's Choice Bank
Project #2058153

Issuer Name:
First Asset Morningstar Emerging Markets Composite Bond Index ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated April 30, 2013 to Final Long Form Prospectus dated January 21, 2013
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Asset Investment Management Inc.
Project #1998971

Issuer Name:
Ford Floorplan Auto Securitization Trust
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated May 13, 2013
NP 11-202 Receipt dated May 14, 2013
Offering Price and Description:
Up to $1,200,000,000.00 of Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ford Credit Canada Limited
Project #2052699

Issuer Name:
Redwood Global High Dividend Fund (formerly Ark NorthRoad Global Fund)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated April 29, 2013 to Final Simplified Prospectus and Annual Information Form dated November 22, 2012
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #1969989

Issuer Name:
Trapeze Value Class (formerly Ark Aston Hill Opportunities Class)
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated May 3, 2013 to Final Simplified Prospectus and Annual Information Form dated November 22, 2012
NP 11-202 Receipt dated May 15, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #1969989

Issuer Name:
Return On Innovation Fund Inc.
Type and Date:
Amendment #2 dated May 10, 2013 to Final Long Form Prospectus dated August 28, 2012
Receipted on May 15, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
ACTRA Toronto Sponsor Inc.
Return On Innovation Management Ltd.
Project #1937922

Issuer Name:
Timbercreek U.S. Multi-Residential Opportunity Fund #1
Principal Regulator - Ontario
Type and Date:
Amended and Restated Long Form Prospectus dated May 15, 2013 to Final Long Form Prospectus dated April 29, 2013
NP 11-202 Receipt dated May 16, 2013
Offering Price and Description:
Maximum: C$50,000,000 of Class A Units and/or Class B Units
Price: C$10.57 per Class A Unit and C$10.00 per Class B Unit
Minimum Purchase: 946 Class A Units or 2,000 Class B Units
Underwriter(s) or Distributor(s):
RAYMOND JAMES LTD.
CIBC WORLD MARKETS INC.
GMP SECURITIES L.P.
MANULIFE SECURITIES INCORPORATED
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
SCOTIA CAPITAL INC.
DUNDEE SECURITIES LTD.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
TIMBERCREEK ASSET MANAGEMENT INC.
Project #2041675

Issuer Name:
Tradex Bond Fund
Tradex Equity Fund Limited
Tradex Global Equity Fund
Principal Regulator - Ontario
Type and Date:
Simplified Prospectuses dated May 17, 2013
NP 11-202 Receipt dated May 17, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Tradex Management Inc.
Promoter(s):
-
Project #2043254

Issuer Name:
Silver Ridge Power Inc.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Base PREP Prospectus dated April 4, 2013
Amended and Restated Preliminary Base PREP Prospectus dated April 23, 2013
Withdrawn on May 15, 2013
Offering Price and Description:
CDN$ * - * Class A Common Shares
Price: CDN$ * per Common Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
GOLDMAN SACHS CANADA INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
AES U.S. SOLAR, LLC
AES SOLAR ENERGY, LLC
R/C US SOLAR INVESTMENT PARTNERSHIP, L.P.,
R/C PR INVESTMENT PARTNERSHIP, L.P.,
R/C EUROPE SOLAR INVESTMENT PARTNERSHIP, L.P.
R/C GLOBAL SOLAR COOPERATIEF U.A.
Project #2041413

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	CENTURION APARTMENT REIT MANAGEMENT INC.	From: Exempt Market Dealer To: Exempt Market Dealer and Investment Fund Manager	May 14, 2013
New Registration	NYLCAP Canada GenPar Inc.	Investment Fund Manager	May 16, 2013
Change in Registration Category	Alignvest Capital Management Inc.	From: Exempt Market Dealer and Investment Fund Manger To: Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	May 16, 2013
New Registration	Builders Capital Management Corp.	Exempt Market Dealer	May 17, 2013

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