The Ontario Securities Commission

OSC Bulletin

July 25, 2013

Volume 36, Issue 30

(2013), 36 OSCB

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

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Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
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The OSC Bulletin is published weekly by Carswell, a Thomson Reuters business, under the authority of the Ontario Securities Commission.

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

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

U.S.	$175
Outside North America	$400

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ISSN 0226-9325

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Chapter 1

Notices / News Releases

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July 25, 2013

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

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

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

SCHEDULED OSC HEARINGS

July 30, 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 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: JEAT
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 12, 2013 1:30 p.m.	**Vincent Ciccone and Cabo Catoche Corp. (a.k.a. Medra Corp. and Medra Corporation)** s. 127 M. Vaillancourt in attendance for Staff Panel: VK

August 12, 2013 2:00 p.m.	**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: 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 16, 2013 10:00 a.m.	**Conrad M. Black, John A Boultbee and Peter Y. Atkinson** s. 127 and 127.1 J. Friedman/A. Clark in attendance for Staff Panel: MGC
August 20, 2013 10:30 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
August 23, 2013 10:00 a.m.	**Pro-Financial Asset Management Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
August 26, 2013 10:00 a.m.	**Children's Education Funds Inc.** 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 10:00 a.m.	**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: AJL
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, 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
September 6, 2013 10:00 a.m.	**Heritage Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: TBA
September 9, 2013 10:00 a.m.	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm in attendance for Staff Panel: JDC/EPK/CWMS
September 11, 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
September 16-23, September 25 – October 7, October 9-21, October 23 – November 4, November 6-18, November 20 – December 2, December 4-16 and 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 C. Price in attendance for Staff Panel: JDC/DL
September 17, 2013 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc., Sylvan Blackett, 1778445 Ontario Inc. and Willoughby Smith** s. 127(1) and (5) A. Heydon/Y. Chisholm in attendance for Staff Panel : EPK
September 23, 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
September 27, 2013 11:00 a.m.	**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: AJL
October 9, 2013 10:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (also known as Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 C. Rossi in attendance for Staff Panel: TBA

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
October 22, 2013 3:00 p.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 25, 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: TBA
November 4 and 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
November 4 and November 6-11, 2013 10:00 a.m.	**Portfolio Capital Inc., David Rogerson and Amy Hanna-Rogerson** s. 127 J. Lynch in attendance for Staff Panel: TBA
November 25-29, 2013 10:00 a.m.	**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: AJL
December 4, 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: TBA
January 13, January 15-27, January 29 – February 10, February 12-14 and February 18-21, 2014 10:00 a.m.	**International Strategic Investments, International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.** s. 127 C. Watson in attendance for Staff Panel: TBA
January 27, 2014 10:00 a.m.	**Welcome Place Inc., Daniel Maxsood also known as Muhammad M. Khan, Tao Zhang, and Talat Ashraf** s. 127 G. Smyth in attendance for Staff Panel: TBA
March 17-24 and March 26, 2014 10:00 a.m.	**Newer Technologies Limited, Ryan Pickering and Rodger Frey** s. 127 and 127.1 B. Shulman in attendance for staff Panel: TBA

March 31 – April 7, April 9-17, April 21 and April 23-30, 2014 10:00 a.m.	**Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh** s. 127 and 127.1 M. Vaillancourt in attendance for Staff Panel: TBA
May 5-16 and 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 and 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 **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 and 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 **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 **Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein**

s. 127

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA **New Hudson Television LLC & Dmitry James Salganov**

s. 127

C. Watson in attendance for Staff

Panel: TBA

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

s. 127 and 127.1

M. Britton/A. Pelletier in attendance for Staff

Panel: TBA

TBA **Ernst & Young LLP (Audits of Zungui Haixi Corporation)**

s. 127 and 127.1

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA **Jowdat Waheed and Bruce Walter**

s. 127

J. Lynch in attendance for Staff

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

1.1.2 CSA Notice 51-340 – Update on Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Notice 51-340
Update on proposed National Instrument 51-103
Ongoing Governance and Disclosure Requirements for Venture Issuers

July 25, 2013

We, the Canadian Securities Administrators (**CSA**), initiated a project examining the venture market with the goal of creating a distinct regime that would be tailored to and benefit both venture issuers and venture investors and that would reinforce governance standards through substantive obligations, certification and disclosure. In May 2010, we published CSA Multilateral Consultation Paper 51-403 *Tailoring Venture Issuer Regulation* and conducted in-person consultations across the country exploring the feasibility of, and support for, this endeavour. Feedback from the consultation paper and in-person consultations was generally very positive.

Based on this feedback, we published proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* (NI 51-103) and other rule amendments for two separate comment periods. The proposals addressed continuous disclosure and governance obligations as well as disclosure for prospectus offerings and certain exempt offerings that require prescribed disclosure.

Some commenters on our first publication (July 2011) had concerns about certain aspects of the proposals, including the proposal to allow venture issuers to choose whether to file first and third quarter financial reports and associated MD&A (interim reporting). The general feedback from a majority of the commenters was that the proposed changes would be worthwhile even without the option with respect to the first and third quarter interim reporting. In the second publication of proposed NI 51-103 (September 2012) we introduced changes to our proposals to accommodate concerns expressed by various constituents including the removal of the proposal to eliminate the requirement for first and third quarter interim reporting. We proposed quarterly financial reporting but with quarterly highlights instead of MD&A.

The changes in our September 2012 publication reduced the distinction between proposed NI 51-103 and the current regime. Although commenters expressed some support, the overall level of support was lower, with more commenters expressing concerns about specific aspects of the proposals. A common theme was the burden that the proposal would place on venture issuers, both in terms of transition to a new regime, and with respect to some of the new disclosure obligations proposed (e.g., a mandatory annual report).

After reviewing the comments received and further consideration, we have determined not to pursue the implementation of proposed NI 51-103. However, we are currently considering implementing some of the proposals within proposed NI 51-103 as amendments within the existing regulatory regime for venture issuers. Any resulting proposed amendments will be published for comment, as necessary.

If you have questions about this notice, please direct them to:

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1.1.3 CSA Staff Notice 51-339 – Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2013

CSA Staff Notice 51-339 – *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2013* is reproduced on the following internally numbered pages. Bulletin pagination resumes at the end of the Staff Notice.

CSA/ACVM Canadian Securities Administrators | Autorités canadiennes en valeurs mobilières

CSA Staff Notice 51-339 *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2013*

July 18, 2013

INTRODUCTION

This notice contains the results of the reviews conducted by the Canadian Securities Administrators (**CSA**) within the scope of their Continuous Disclosure (**CD**) Review Program. This program was established to review the compliance of the CD documents of reporting issuers[1] (**issuers**) to ensure they are reliable and accurate. The CSA seek to ensure that Canadian investors receive high quality disclosure from issuers.

In this notice, we summarize the results of the CD Review Program for the fiscal year ended March 31, 2013 (**fiscal 2013**). To raise awareness about the importance of filing compliant CD documents, we also discuss certain areas where common deficiencies were noted and provide examples to help issuers address these deficiencies in the following appendices:

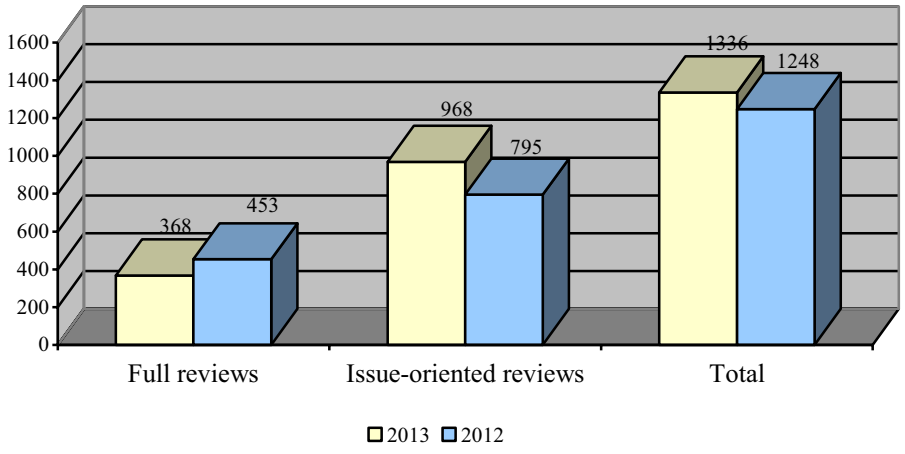
- Appendix A – Financial Statements Deficiencies
- Appendix B – Management's Discussion and Analysis (**MD&A**) Deficiencies
- Appendix C – Other Regulatory Disclosure Deficiencies

For further details on the CD Review Program, see CSA Staff Notice 51-312 (revised) *Harmonized Continuous Disclosure Review Program*.

RESULTS FOR FISCAL 2013

During fiscal 2013, a total of 1,336 CD reviews (368 full reviews and 968 issue-oriented reviews) were conducted. This is a 7% increase compared to the 1,248 CD reviews (453 full reviews and 795 issue-oriented reviews) completed during fiscal 2012.

Reviews Completed



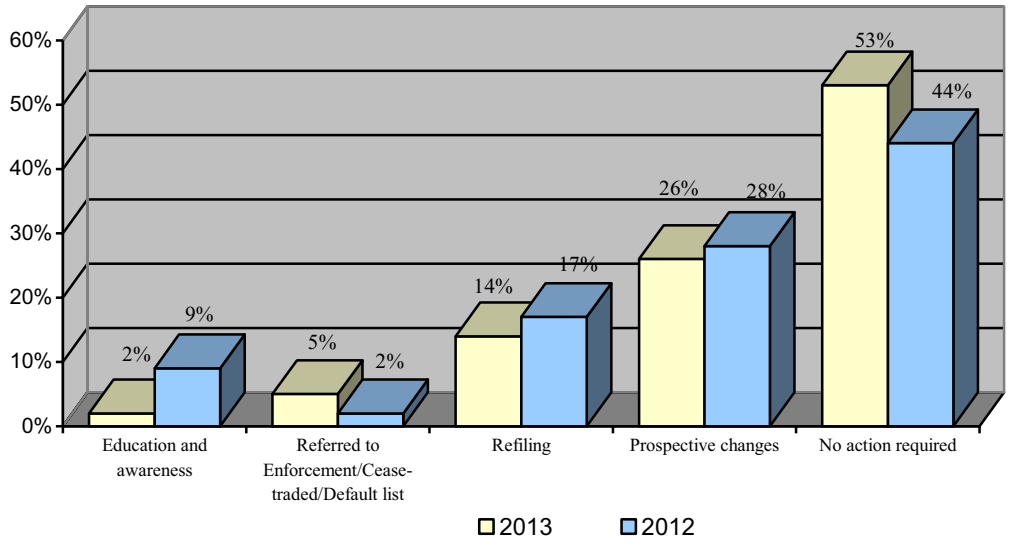
[1] In this notice "issuers" means those reporting issuers contemplated in National Instrument 51-102 *Continuous Disclosure Obligations*.

The increased number of total reviews during fiscal 2013 reflects a slightly greater emphasis on issue-oriented reviews which increased due to certain CSA jurisdictions examining technical disclosure and IFRS specific topics on a larger sample of issuers. Technical issue-oriented reviews focused on compliance with National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (**NI 43-101**), and National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**). Specific topic issue-oriented reviews were conducted to determine issuers' compliance with a specific IFRS and to determine if the MD&A disclosure on a specific subject was compliant with Form 51-102F1 *Management's Discussion & Analysis* of National Instrument 51-102 *Continuous Disclosure Obligations* (**Form 51-102F1**).

OUTCOMES FOR FISCAL 2013

In fiscal 2013, 47% of our review outcomes required issuers to take action to improve their disclosure, compared to 56% in fiscal 2012.

Review outcomes



We classified the outcomes of the full and issue-oriented reviews in the five categories described in Appendix D. Some CD reviews generated more than one category of outcome. For example, an issuer may have been required to refile certain documents and also make certain changes on a prospective basis.

The largest review outcome was in the "no action required" category (53%). This category is made up primarily from the results of issue-oriented reviews on specific IFRS topics and Form 51-102F1 disclosures. These reviews generally did not result in issuing comment letters. Our main objective was to monitor overall quality of disclosure, observe trends and conduct research. Our learning from these findings will be incorporated into our CD review program going forward. These reviews included reviews of cash flow and operating segments.

The "prospective changes" category (26%) continues to represent a large portion of our outcomes. If material deficiencies or errors are identified, we expect issuers to correct them by restating and refiling the CD documents. However, when enhancements are required as a result of deficiencies identified, we request that amendments be made when the issuer next files CD

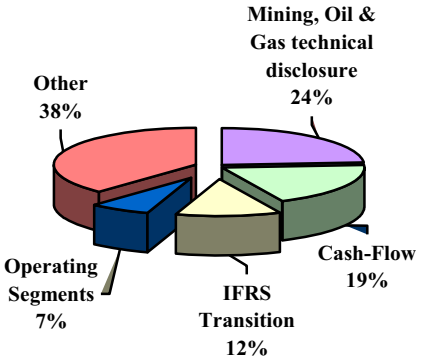
documents. We aim to educate issuers by providing future filing comments. Some of the common examples of the "prospective changes" include enhancement of:

- financial statement disclosure for critical judgements, sources of estimation uncertainty disclosure and going concern disclosure, consistent with IFRS requirements;
- MD&A to comply with Form 51-102F1, including discussion of operations, liquidity and transactions between related parties;
- executive compensation disclosure to comply with Form 51-102F6 *Statement of Executive Compensation*, with emphasis on compensation discussion and analysis.

ISSUE-ORIENTED REVIEWS

An issue-oriented review focuses on a specific accounting, legal or regulatory issue that we believe warrants scrutiny. In fiscal 2013, a total of 72% of the reviews were issue-oriented reviews (as compared to 64% of the reviews in fiscal 2012).

Issue-Oriented reviews 2013



The "Other" category includes reviews of:

- **Defined Benefit Plans;**
- **Risk disclosure;**
- **Forward-Looking Information;**
- **Certification;**
- **Business Acquisition Report; and**
- **Press Releases.**

You will find below the results of certain issue-oriented reviews conducted during fiscal 2013 and the common deficiencies noted. Please refer to Appendix C for "Mining, Oil & Gas technical disclosure" common deficiencies.

Cash flow disclosure

Issuers must comply with the disclosure obligations set out in IAS 7 *Statement of cash flows,* and sections 1.6 and 1.7 of Form 51-102F1 when addressing cash flow reporting in their financial statements and MD&As respectively. When conducting our reviews, we focused on cash flow presentation, liquidity and capital disclosure. Common deficiencies noted include:

- inadequate classification of cash flows between operating, investing or financing activities in the financial statements;
- incomplete or unclear discussion about the issuer's exposure to liquidity risks arising from financial instruments, such as short and long-term borrowing in the financial statements;
- incomplete or unclear discussion in MD&As of why certain non-GAAP cash flow financial measures provide useful information to investors;
- incomplete or unclear discussion in MD&As of the issuer's liquidity, its working capital requirements, its ability to generate sufficient amount of cash to maintain its capacity, meet its planned growth or to fund development activities; and
- incomplete or unclear discussion in MD&As on the status of debt facilities, the amount of facility drawn and remaining, details of covenants, and when there is material risk of default,

how the issuer intends to remedy the default or address the risk.

IFRS transition

During fiscal 2013 we reviewed the first IFRS interim financial reports of issuers with non-calendar year ends. When conducting our reviews, we focused on IFRS transition disclosures. Common deficiencies noted include:

- insufficient or unclear description of the effect of the transition; and
- omission of certain reconciliations with previous Canadian GAAP – Part V.

Operating segments

Issuers must comply with the disclosure obligations set out in IFRS 8 *Operating segments,* and section 1.2 of Form 51-102F1 when addressing operating segments in their financial statements and MD&As. Common deficiencies noted include:

- incomplete or omitted information about geographic areas and major customers in financial statements;
- failure to combine and disclose in an "all other segments" category information about other business activities and operating segments that are not reportable, i.e. disclosed separately from other reconciling items in the reconciliations required in financial statements;
- failure to provide restated comparative period segment data reflecting a change in reportable segments in financial statements; and
- incomplete analysis of operating segments that are reportable segments in MD&As.

FULL REVIEWS

A full review is broad in scope and covers many types of disclosure. A full review covers the selected issuer's most recent annual and interim financial reports and MD&A filed before the start of the review. For all other CD disclosure documents, the review covers a period of approximately 12 to 15 month. In certain cases, the scope of the review may be extended in order to cover prior periods. The issuer's CD documents are monitored until the review is completed. A full review includes an issuer's technical disclosure (i.e. technical reports for oil and gas and mining issuers), annual information form, annual report, information circulars, press releases, material change reports, business acquisition reports, websites, certifying officers' certifications and material contracts.

In fiscal 2013, a total of 28% of the reviews were full reviews (as compared to 36% of the reviews in fiscal 2012).

COMMON DEFICIENCIES IDENTIFIED

Our full and issue-oriented reviews focus on identifying material deficiencies and potential areas for disclosure enhancements. To help issuers better understand their CD obligations, we have provided guidance and examples of common deficiencies in the following appendices:

Appendix A: Financial Statements Deficiencies

1. Judgements
2. Impairment of goodwill
3. Going concern

Appendix B: Management's Discussion and Analysis (**MD&A**) Deficiencies

1. Liquidity
2. Discussion of operations
3. Related party transactions

Appendix C: Other Regulatory Disclosure Deficiencies

1. Mineral projects
2. Oil and gas activities
3. Disclosure controls and procedures and internal control over financial reporting in venture issuers' MD&A
4. Executive compensation

This is not an exhaustive list of disclosure deficiencies noted in our reviews. We remind issuers that their CD record must comply with all relevant securities legislation and lengthy disclosure does not necessarily equal full compliance. Examples do not include all requirements that could apply to a particular issuer's situation.

Results by jurisdiction

The Alberta Securities Commission and the *Autorité des marchés financiers* publish reports summarizing the results of the CD review program in their jurisdictions. See the individual regulator's website for a copy of its report:

- www.albertasecurities.com
- www.lautorite.qc.ca

APPENDIX A

FINANCIAL STATEMENTS DEFICIENCIES

This Appendix provides some examples of deficient disclosure contrasted against more robust entity-specific disclosure for three areas of IFRS requirements. Many issuers could improve compliance in these areas.

1. Judgements

In accordance with paragraph 122 of IAS 1 *Presentation of Financial Statements* (**IAS 1**), an issuer shall disclose in the summary of significant accounting policies or other notes, the judgements, apart from those involving estimations, that management has made in the process of applying the entity's accounting policies and that have the most significant effect on the amounts recognised in the financial statements.

We found that the disclosure about judgements that have the most significant effect on the amounts recognised in the financial statements is generally deficient and boilerplate. We noted that some issuers did not disclose any information about judgements. In some instances, issuers included a note with a title referring to judgements and estimates in the financial statements, but the note only included information about estimates. In other instances, issuers listed the financial statements items involving judgements, but they did not disclose the judgements made.

Example of deficient disclosure

Use of estimates and judgements

The preparation of financial statements in compliance with IFRS requires management to make judgements, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses. Actual results may differ from these estimates.

Estimates are based on management's best knowledge of current events and actions that the Company may undertake in the future. Estimates and underlying assumptions are reviewed on an on-going basis.

Critical judgements in applying accounting policies that have the most significant effect on the amounts recognized in the financial statements include assessing when depletion of capitalized costs for mining properties begins.

Example of entity-specific disclosure

Judgements

In applying the Company's accounting policies, management used its judgement in areas which have the most significant effect on the amounts recognized in the consolidated financial statements, including:

Determining Production Stage of a Mine

The Company capitalizes costs incurred in exploration, evaluation and development as part of mining properties prior to a mine being capable of operating at levels intended by management. Depletion of capitalized costs for mining properties begins upon the mine entering into production stage, which requires significant judgement in its determination. Management considers various factors to determine when a mine is substantially complete and ready for its intended use. These factors include: 1) level of capital expenditures compared to construction cost estimates; 2) completion of a reasonable period of testing of major mine and plant components; 3) achievement of consistent operational results over a reasonable period of time; 4) achievement of planned production capacity for plant and mill; and 5) ability to sustain ongoing production. The Company determined that the ABC mine was capable of operating at levels intended by management and moved into production stage on March 1, 2013.

2. Impairment of goodwill

In accordance with paragraph 134 of IAS 36 *Impairment of Assets* (**IAS 36**), an issuer must disclose information on each cash-generating unit (**CGU**) or group of CGUs for which the carrying amount of goodwill or intangible assets with indefinite useful lives allocated to that CGU or group of CGUs is significant in comparison with the entity's total carrying amount of goodwill or intangible assets with indefinite useful lives. If the CGU or group of CGUs' recoverable amount is based on value in use, this information includes a description of each key assumption on which management has based its cash flow projections for the period covered by the most recent budgets/forecasts. Key assumptions are those to which the CGU or group of CGUs' recoverable amount is most sensitive.

Some issuers did not disclose all the information required by paragraph 134 of IAS 36.

Example of deficient disclosure

Goodwill is tested at least annually for impairment. The Corporation performed its impairment test as at December 31, 2012. For the purpose of impairment testing, goodwill is tested for impairment at the CGU level. The recoverable amount of the CGUs is based on value in use. If the carrying value exceeds the recoverable amount, an impairment charge is recognized to the extent that the carrying value exceeds the recoverable amount.

The recoverable amount of all CGUs has been determined based on cash flow projections on financial budgets approved by management covering a five-year period. Cash flows beyond the five-year period are extrapolated using estimated growth rates of 2%.

Example of deficient disclosure (continued)

The discount rates used are pre-tax and reflect specific risks relating to the relevant CGUs. The pre-tax discount rate used for the value in use calculation was 16%.

No impairment charge has arisen as a result of the review performed as at December 31, 2012. Reasonably possible changes in key assumptions would not cause the recoverable amount of CGUs to fall below the carrying value.

In the above example, the issuer did not provide:

- the carrying amount of goodwill allocated to the CGU or group of CGUs for which the carrying amount of goodwill is significant in comparison with the issuer's total carrying amount of goodwill (Paragraph 134 (a) of IAS 36);
- a complete description, by CGU or group of CGUs, of each key assumption on which management has based its cash flow projections for the period covered by the most recent budgets/forecasts. Key assumptions are those to which the CGU or group of CGUs' recoverable amount is most sensitive (Paragraph 134 (d) (i) of IAS 36). Examples may include revenue growth or gross margin percentage assumptions; and
- a description of management's approach in determining the value (or values) assigned to each key assumption, whether these values reflect past experience or, if appropriate, are consistent with external sources of information, and, if not, how and why they differ from past experience or external sources of information (Paragraph 134 (d) (ii) of IAS 36). For example, if the gross margin percentage for a specific CGU or group of CGUs is higher in the cash flow projection than what has been experienced, it would be important for users to be alerted to this and to understand why.

Example of entity-specific disclosure for paragraph 134 (a) of IAS 36

For the purpose of annual impairment testing, goodwill is allocated to the following CGUs which are the units expected to benefit from the synergies of the business combinations in which the goodwill arises.

CGU A: $300,000
CGU B: $150,000
CGU C: $95,000
CGU D: $80,000

Note 1 : Assumes that CGU A, B, C and D are adequately described in another note. Also assumes that all other information required by paragraph 134 of IAS 36 is disclosed.

3. Going concern

Under IAS 1, when management is aware of material uncertainties related to events or conditions that may cast significant doubt upon the issuer's ability to continue as a going concern, the issuer must disclose these uncertainties.

Under paragraph 19 of the Canadian Auditing Standards 570 *Going Concern*, if adequate disclosure is made in the financial statements, the auditor shall express an unmodified opinion and include an "Emphasis of Matter" paragraph in the auditor's report to highlight the existence of a material uncertainty relating to the event or condition that may cast significant doubt on the entity's ability to continue as a going concern and draw attention to the note in the financial

statements that discloses the matters set out in this paragraph.

We sometimes see inconsistent information between the going concern disclosure provided in an issuer's financial statements and the going concern disclosure included in the auditor's report.

Some issuers provide indications of financial difficulty, sometimes under a going concern heading, without explicitly stating that the disclosed uncertainties may cast significant doubt upon the issuer's ability to continue as a going concern despite the fact that the auditor's report highlights the existence of a material uncertainty relating to the event or condition that may cast significant doubt on the issuer's ability to continue as a going concern.

Example of deficient disclosure

Extract from the auditor's report

Emphasis of Matter paragraph

We draw attention to Note 2 to the financial statements that highlights the existence of a material uncertainty relating to the event or condition that may cast significant doubt on the entity's ability to continue as a going concern. Our opinion is not qualified in respect of this matter.

Extract from the financial statements

Note 2 - Going concern assumption

At year-end the Company had minimal cash and a working capital deficiency. While the Company has prepared its financial statements on the going concern basis, it is dependent on its ability to obtain additional financing from related parties and external financing to sustain operations and fund its expenditures.

Management is actively pursuing such additional sources of financing, and while it has been successful in doing so in the past, there can be no assurance it will be able to do so in the future.

Example of entity-specific disclosure

Extract from the auditor's report

Emphasis of Matter paragraph

We draw attention to Note 2 to the financial statements that highlights the existence of a material uncertainty relating to the event or condition that may cast significant doubt on the entity's ability to continue as a going concern. Our opinion is not qualified in respect of this matter.

Extract from the financial statements

Note 2 - Going concern assumption

The financial statements were prepared on a going concern basis. The going concern basis assumes that the Company will continue to operate in the foreseeable future and will be able to realize its assets and discharge its liabilities and commitments in the normal course of business.

For the year ended December 31, 2012, the Company had a net loss from operations of $3 million, a negative cash flow from operations of $2 million. As at year-end, the Company had a working capital deficiency of $1.5 million and cash on hand of $2 million.

Extract from the financial statements (continued)

The Company has a history of operating losses. In recent years, it had negative cash flows from operations and working capital deficiencies. The Company's credit facility contains certain financial covenants that are subject to periodic reviews. As part of its debt agreement, the Company must maintain a working capital ratio of at least 1:1. As at December 31, 2012, this ratio was 0.5:1. Given the breach, the lender has the right to demand full repayment at any time. As a result, the bank debt has been reclassified to short term liabilities resulting in a higher working capital deficiency. The Company is currently in negotiations with the lender to waive the covenant violations.

Whether and when the Company can attain profitability and positive cash flows is uncertain. These uncertainties cast significant doubt upon the Company's ability to continue as a going concern.

The Company will need to complete a short term financing to make the payment for the credit facility, raise sufficient working capital to maintain operations, reduce operating expenses and increase revenues. Subsequent to year end, the Company completed a private placement of $3 million to fund ongoing operations and to pay off the credit facility in the event the waiver cannot be obtained.

We remind issuers, that when there are uncertainties that cast doubt on the issuer's ability to continue as going concern, the MD&A should also provide a discussion and analysis on how the issuer expects to resolve the uncertainty event or condition.

APPENDIX B

MANAGEMENT'S DISCUSSION AND ANALYSIS (MD&A) DEFICIENCIES

As in prior years, deficiencies were noted in the MD&A disclosure. As stated in Part 1(a) of Form 51-102F1 *Management's Discussion and Analysis* of National Instrument 51-102 *Continuous disclosure obligations* (**Form 51-102F1**), the MD&A should include balanced discussions of the issuer's financial performance and financial condition, including, without limitation, such considerations as liquidity and capital resources. The MD&A should help current and prospective investors to understand what the financial statements show and do not show. It should also discuss material information that may not be fully reflected in the financial statements.

There are three important areas of the MD&A where deficient disclosures were noted: 1) liquidity; 2) discussion of operations; and 3) related party transactions. For each area, we have provided examples of deficient disclosure contrasted against more robust entity-specific disclosure.

1. Liquidity

Many smaller issuers focus their resources on completing a project or on expanding their operations. In accordance with section 1.6 of Form 51-102F1, the MD&A should focus on the issuer's ability to generate sufficient liquidity in the short term and in the long term to fund development activities or to meet planned growth. Moreover, the MD&A should explain how an issuer will meet its obligations as they become due and how they will address working capital deficiencies. We often find issuers reproduce in their MD&A information that is readily available from the financial statements without ensuring compliance with section 1.6 of Form 51-102F1.

Example of deficient disclosure

Liquidity

Year ended	**December 31, 2012 $**	**December 31, 2011 $**	**Difference $**
Cash flows from operating activities	(270,000)	102,000	(372,000)
Cash flows from investing activities	(350,000)	(340,000)	(10,000)
Cash flows from financing activities	520,000	425,000	95,000
Increase (decrease) of cash flows	(100,000)	187,000	(287,000)

Operating activities

The cash flows used in operating activities totalled $270,000. For the same period last year, the cash flow from operating totalled $102,000.

Investing activities

The cash flows used in investing activities increased by $10,000.

Example of deficient disclosure (continued)

Financing activities

The cash flows from financing activities totalled $520,000. For the same period last year, the cash flows from financing totalled $425,000.

	December 31, 2012 $	**December 31, 2011 $**	**Increase (decrease in working capital) $**
Cash	51,000	151,000	(100,000)
Accounts receivable	789,000	852,000	(63,000)
Inventory	800,000	942,000	(142,000)
Prepaid expenses	30,000	28,000	2,000
Bank indebtedness	350,000	0	(350,000)
Loan – Investment tax credits	120,000	0	(120,000)
Accounts payable	1,035,000	877,000	(158,000)
Current portion of long term debt	150,000	100,000	(50,000)
Total working capital	**15,000**	**996,000**	**(981,000)**

The company's working capital decreased by $981,000.

Example of entity-specific disclosure

At the end of fiscal 2012, the Company had $51,000 of cash on hand and working capital of $15,000.

Given the various projects the Company is handling in the short and medium terms, management still considers the current cash balance and forecast net cash flows from operating activities for the next 12 months to be below the $300,000 desirable for its planned business development activities.

The success of development projects depends greatly on the Company's ability to generate sufficient cash to meet its needs. In fiscal 2012, the Company renegotiated the terms of its financing agreement with its financial institution and obtained an operating line of credit of $500,000 to continue development of its X products distribution activities and to finance growth. As at the end of fiscal 2012, $150,000 was available on the line of credit. Also in 2012, the Company contracted new financing of $120,000, secured by investment tax credits, to continue research and development work on its Y project. This financing was used at the end of fiscal 2012.

Hence, as of the end of fiscal 2012, management was still considering various sources of financing available on the market to increase the Company's liquidity. At year end, management was negotiating a private placement of $500,000 that was completed after year end.

2. Discussion of operations

An MD&A should explain what factors contributed to changes in an issuer's operations. Issuers often reproduce information from the statement of profit or loss and other comprehensive income in their MD&A, without explaining what caused the changes.

In accordance with section 1.4 of Form 51-102F1, the revenue analysis included in an issuer's MD&A should discuss any change caused by selling prices, volume or quantity of goods or services being sold, or the introduction of new products or services. It is useful to investors if the issuer quantifies each of these elements. If other elements affected revenue, such as the introduction of a new competitor, the issuer's MD&A should also address these factors. If an issuer's financial statements present information from more than one reportable segment, the issuer must discuss the results of each segment in its MD&A.

Example of deficient disclosure

The Company reported revenue of $7,666,000 for the year ended December 31, 2012, compared with $7,098,000 a year earlier, an increase of 8%. The growth is mainly due to the sales of L products.

Example of entity-specific disclosure

During fiscal 2012, the Company's sales increased by 8%. The Company undertook a new activity, namely the distribution of L product in the Canadian manufacturing sector. As at year end, because of a delay in the manufacturing of L products, this activity had not yet reached the level that management had anticipated. The sales of L products increased sales by 7%.

Since 30% of sales are made in US dollars, the depreciation of the Canadian dollar had a positive impact on sales. This impact was a 3% increase in sales.

Despite the positive effect of the introduction of L product and of the exchange rate, the arrival of a new competitor forced the Company to decrease its sale price on product V. With this decrease, the Company was able to maintain the sale volume of product V. Due to the quality reputation of product V, management believes that no other decrease of the sale price will be necessary to maintain the sale volume of product V in the future. The decrease in the sale price caused a 2% decrease in sales.

3. Related party transactions

Under section 1.9 of Form 51-102F1, issuers are required to identify the related person or entities, to discuss the business purpose of the transaction, to describe the measurement basis used and to discuss ongoing commitments resulting from the transaction. It is common for issuers to reproduce the related party transactions note provided in their financial statements or to simply refer to that note. However, IAS 24 *Related Party Disclosures* does not require the same level of information as section 1.9 of Form 51-102F1.

Example of deficient disclosure

The Company paid $150,000 to a company controlled by a director for consulting services.

Example of entity-specific disclosure

During the year, the Company paid $150,000 to Orange Inc., which is controlled by Mr. Smith, Chief Executive Officer and director of the Company. The $150,000 fee was paid for programming services relating to the implementation of new inventory software. The fee is based on what Orange Inc. usually charges its regular clients less a 10% discount. The Company expects to continue to use Orange Inc.'s programming services until the implementation of the new inventory software is completed.

APPENDIX C

OTHER REGULATORY DISCLOSURE DEFICIENCIES

CSA Staff assess issuer compliance with securities laws. Our objective is to promote clear and informative disclosure that will allow investors to make informed investment decisions. The areas where compliance issues persist include disclosure about: 1) mineral projects; 2) oil and gas activities; 3) disclosure controls and procedures and internal control over financial reporting in venture issuers' MD&A; and 4) executive compensation.

1. Mineral projects

Issuers engaged in mining activities have to comply with the requirements set out in National Instrument 43-101 *Standards of Disclosure for Mineral Projects*. Common deficiencies noted include:

- incomplete or inadequate disclosure of preliminary economic assessments, mineral resources and mineral reserves;
- non-compliant certificates and consents of qualified persons for technical reports;
- incomplete or inadequate disclosure of historical estimates and exploration targets; and
- name of the qualified person omitted in documents containing scientific and technical information.

2. Oil and gas activities

Issuers engaged in oil and gas activities must comply with the requirements set out in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**). Common deficiencies noted include:

- failure to adapt to current requirements of Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information* (**Form 51-101F1**), Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor*, and Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure*;
- non-compliance with sections 5.9, 5.16 and 5.17 of NI 51-101 concerning disclosure of resources other than reserves, classification to the most specific category of resources, summation across resource categories and disclosure of high case estimates of resources;
- inadequate disclosure of the meaning of, and method of calculating, the metrics used by issuers to measure and compare oil and gas activities;
- deficiencies in reserves reconciliation disclosure, including, for example, opening balances for the reserves reconciliation required under item 4.1 of Form 51-101F1 that do not agree with the prior year's closing balances; and
- insufficient and boilerplate disclosure of significant factors and uncertainties as per items 5.2 and 6.2.1 of Form 51-101F1, regarding the issuer's proved and probable undeveloped reserves and plans for developing those reserves under item 5.1 of Form 51-101F1.

3. Disclosure controls and procedures (DC&P) and internal control over financial reporting (ICFR) in venture issuers' MD&A

Some venture issuers discussed DC&P or ICFR in their MD&As, but did not include cautionary language. In accordance with section 15.3 of the Companion Policy to National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**52-109 CP**), if a

venture issuer and its certifying officers file Forms 52-109FV1 or 52-109FV2 (**Venture Issuers Basic Certificates**) and choose to discuss the design or operation of one or more components of their ICFR and DC&P in the MD&A or other regulatory filings, they should also consider disclosing in the same document that:

(a) the venture issuer is not required to certify the design and evaluation of its DC&P and ICFR and has not completed such an evaluation; and

(b) inherent limitations on the ability of the certifying officers to design and implement on a cost-effective basis DC&P and ICFR for the issuer may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

Venture Issuers Basic Certificates provided in National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**) include a "Note to Reader" that the certifying officers are not making any representations relating to the establishment and maintenance of:

i) controls and other procedures designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted under securities legislation is recorded, processed, summarized and reported within the time periods specified in securities legislation; and

ii) a process to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP.

In the following example, the venture issuer used Venture Issuers Basic Certificates.

Example of deficient disclosure

Disclosure controls and procedures
The Company's Chief Executive Officer (CEO) and the Chief Financial Officer (CFO) are responsible for establishing and maintaining the Company's disclosure controls and procedures. These controls and procedures have been evaluated as at December 31, 2012 and have been determined to be effective.

Internal controls over financial reporting
The Company's CEO and the CFO are responsible for establishing and maintaining the Company's internal controls over financial reporting.

The internal control system pertaining to financial reporting gives a reasonable assurance as to the reliability of the financial information reported and the preparation of the financial statements in accordance with IFRS.

In the above example, to avoid confusion, it would have been more appropriate for the venture issuer to use Forms 52-109F1 or 52-109F2 (**Full Certificates**) as allowed by subsections 4.2(2) and 5.2(2) of NI 52-109. However, if the venture issuer does use Full Certificates, it must use a control framework for the design of ICFR, as required by subsection 3.4(2) of NI 52-109. The guidance in Parts 6 and 7 of 52-109 CP regarding establishing and evaluating DC&P and ICFR would also apply.

If in the above example, the venture issuer intends to use only a Venture Issuers Basic Certificate then it could have discussed only one or a few discrete components of DC&P or ICFR. In addition, the MD&A disclosure should be clear and should not include assertions about the design or evaluation of all aspects of DC&P or ICFR, and should not include any conclusions on the effectiveness of DC&P or ICFR. In addition, the cautionary language set out in section 15.3 of 52-109 CP would ensure transparent disclosure.

For additional guidance on NI 52-109, please see CSA Staff Notice 52-325 *Certification Compliance Review* and CSA Staff Notice 52-327 *Certification Compliance Update.*

4. Executive compensation

Issuers must provide the executive compensation disclosure for the periods set out in, and in accordance with Form 51-102F6 *Statement of Executive Compensation* of National Instrument 51-102 *Continuous disclosure obligations.* This disclosure can be included in an information circular, an annual information form (**AIF**) or as a stand-alone document.

The executive compensation disclosure must be filed not later than 140 days after the end of the issuer's most recently completed financial year pursuant to subsection 11.6(3) of National Instrument 51-102 *Continuous Disclosure Obligations*. We noted that some issuers failed to file the executive compensation disclosure within 140 days. We remind issuers, that if they are not planning to send an information circular to their securityholders within 140 days after the end of their most recently completed financial year, they must include the executive compensation disclosure in either the AIF or as a stand-alone document, and file it within the 140 days.

APPENDIX D

CATEGORIES OF OUTCOMES

Enforcement referral/ Default list/ Cease trade order

If the issuer has critical CD deficiencies, we may add the issuer to our default list, issue a cease trade order and/or refer the issuer to Enforcement.

Refiling

The issuer must amend and refile certain CD documents.

Prospective Changes

The issuer is informed that certain changes or enhancements are required in its next filing as a result of deficiencies identified.

Education and Awareness

The issuer receives a proactive letter alerting it to certain disclosure enhancements that should be considered in its next filing.

No action required

The issuer does not need to make any changes or additional filings. The issuer could have been selected in order to monitor overall quality disclosure of a specific topic, observe trends and conduct research.

Questions

Please refer your questions to any of the following:

Nadine Gamelin Analyst, Continuous Disclosure Autorité des marchés financiers 514-395-0337, ext. 4417 Toll-free: 1-877-525-0337, ext. 4417 nadine.gamelin@lautorite.qc.ca Nicole Parent Analyst, Continuous Disclosure Autorité des marchés financiers 514-395-0337, ext. 4455 Toll-free: 1-877-525-0337, ext. 4455 nicole.parent@lautorite.qc.ca	Allan Lim Manager British Columbia Securities Commission 604-899-6780 Toll-free 800-373-6393 alim@bcsc.bc.ca Sabina Chow Senior Securities Analyst British Columbia Securities Commission 604-899-6797 Toll-free 800-373-6393 schow@bcsc.bc.ca
Cheryl McGillivray Manager, Corporate Finance Alberta Securities Commission 403-297-3307 cheryl.mcgillivray@asc.ca Elena Kim Securities Analyst, Corporate Finance Alberta Securities Commission 403-297-4226 elena.kim@asc.ca	Tony Herdzik Deputy Director, Corporate Finance Financial and Consumer Affairs Authority of Saskatchewan 306-787-5849 tony.herdzik@gov.sk.ca
Bob Bouchard Director, Corporate Finance Manitoba Securities Commission 204-945-2555 bob.bouchard@gov.mb.ca Patrick Weeks Analyst, Corporate Finance Manitoba Securities Commission 204-945-3326 patrick.weeks@gov.mb.ca	Kathryn Daniels Deputy Director, Corporate Finance Ontario Securities Commission 416-593-8093 kdaniels@osc.gov.on.ca Christine Krikorian Senior Accountant, Corporate Finance Ontario Securities Commission 416-593-2313 ckrikorian@osc.gov.on.ca
Pierre Thibodeau Senior Securities Analyst Financial and Consumer Services Commission (New Brunswick) 506-643-7751 pierre.thibodeau@fcnb.ca	Kevin Redden Director, Corporate Finance Nova Scotia Securities Commission 902-424-5343 reddenkg@gov.ns.ca Junjie (Jack) Jiang Securities Analyst, Corporate Finance Nova Scotia Securities Commission 902-424-7059 jiangjj@gov.ns.ca

1.3 News Releases

1.3.1 Canadian Securities Regulators Announce Results of Continuous Disclosure Reviews for Fiscal 2013

FOR IMMEDIATE RELEASE
July 19, 2013

CANADIAN SECURITIES REGULATORS ANNOUNCE RESULTS OF CONTINUOUS DISCLOSURE REVIEWS FOR FISCAL 2013

The Canadian Securities Administrators (CSA) today published Staff Notice 51-339 *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2013*, which summarizes the results of the CSA's continuous disclosure (CD) review program.

There are approximately 4,200 active reporting issuers in Canada (excluding investment funds). These issuers are subject to regular full and issue-oriented reviews as part of the CSA's ongoing CD review program.

The Notice includes detailed examples of common deficiencies the CSA identified during its review of financial statements, Management's Discussion and Analysis (MD&A) and other regulatory disclosure. It also provides reporting issuers with practical guidance and suggestions for improving their disclosure.

"Maintaining high quality continuous disclosure records is essential to assist investors in making informed and confident investment decisions", said Bill Rice, Chair of the CSA and Chair and CEO of the Alberta Securities Commission.

The CSA members completed 1,336 CD reviews in fiscal 2013 (368 full reviews and 968 issue-oriented reviews), a seven per cent increase compared to 1,248 reviews completed during fiscal 2012. The increased number of reviews this year reflects a slightly greater emphasis on issue-oriented reviews. The outcomes of this year's reviews are as follows:

- two per cent of the reviews resulted in reporting issuers being alerted to specific areas where disclosure enhancements should be considered as part of the CSA's effort to educate issuers;
- five per cent of issuers were either cease-traded, placed on a default list or referred to enforcement;
- 14 per cent of the reviews resulted in reporting issuers being required to amend or re-file certain CD documents;
- 26 per cent of the reviews resulted in "prospective changes", requiring reporting issuers to make enhancements to their disclosure in future filings; and
- 53 per cent of issuers were not required to make any changes or additional filings.

CSA Staff Notice 51-339 is available on various CSA members' websites.

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

For more information:

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Wendy Connors-Beckett
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Janice Callbeck
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Office of the Attorney General
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Doug Connolly
Financial Services Regulation Div.
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Louis Arki
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Daniela Machuca
Financial and Consumer Affairs
Authority of Saskatchewan
306-798-4160

Rhonda Horte
Office of the Yukon Superintendent of
Securities
867-667-5466

Donn MacDougall
Northwest Territories
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867-920-8984

1.3.2 OSC Launches Registrant Outreach to Improve Dialogue with Ontario Registrants

FOR IMMEDIATE RELEASE
July 22, 2013

OSC LAUNCHES REGISTRANT OUTREACH
TO IMPROVE DIALOGUE WITH ONTARIO REGISTRANTS

TORONTO – To promote stronger compliance practices and enhance investor protection, the Ontario Securities Commission (OSC) is strengthening its communication with registrants through a newly launched 'Registrant Outreach' program.

The Program, featuring a dedicated web page and educational seminars, facilitates a more interactive dialogue with Ontario registrants and will provide registrants with easy to access compliance-related information in one convenient location.

"Registrants are a vital component of Ontario's capital market and it's important that we provide them with tailored tools and guidance to foster strong regulatory compliance, which leads to enhanced investor protection," said Debra Foubert, Director, Compliance and Registrant Regulation at the OSC. "We have a responsibility to strengthen our lines of communication with registrants and work with them to achieve efficient and effective capital markets."

Outreach Program Initiatives

Dedicated web page

The Program features a dedicated web page for registrants, which has been designed to enhance awareness of topical compliance issues. Registrants are encouraged to check the web on a regular basis for updates on regulatory issues impacting Ontario registrants.

Educational Seminars

Beginning in September, the OSC will host a series of targeted seminars to provide registrants with practical knowledge on compliance related matters. The seminars will feature topics including how to get through an OSC compliance review and understanding KYC (know your client) and suitability obligations. Interested registrants can find the seminar calendar and course descriptions on the registrant outreach web page.

Registrant Community

Registrants are also encouraged to join the OSC's Registrant Outreach Community to receive regular email updates on OSC policies impacting registrants, as well as the latest publications and guidance on the OSC's expectations regarding compliance.

Quick Facts

- The OSC oversees approximately 1,300 firms and 66,000 individuals in Ontario.
- The Registrant Outreach program is led by the Compliance and Registrant Regulation branch, which regulates firms and individuals in the business of advising or trading in securities or commodity futures, and firms that manage investment funds in Ontario.
- The OSC conducts compliance reviews of advisers, exempt market dealers, scholarship plan dealers and investment fund managers throughout the year to monitor their compliance with Ontario securities law.
- Using a risk assessment model, the OSC conducts on-site and desk reviews of firms.
- Firms may also be reviewed as part of a "sweep" on a particular topic of interest or issue identified by the OSC.

Key policy initiatives impacting registrants

- Cost disclosure, performance reporting and client statements
- Potential best interest standard for dealers and advisers
- Review of prospectus exemptions

Additional Resources

- 2012 Annual Survey Report for Dealers, Advisors and Investment Fund Managers
- Portfolio Managers and Exempt Market Dealers suitability sweep
- New initiatives: Enhanced transparency of communications with registrants

The OSC is the regulatory body responsible for overseeing Ontario's capital markets. The OSC administers and enforces Ontario's securities and commodity futures laws. Its mandate is to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in capital markets.

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Follow us on Twitter: OSC_News

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1.3.3 OSC Announces Investment Funds Product Advisory Committee Members for 2013-2015

FOR IMMEDIATE RELEASE
July 23, 2013

OSC ANNOUNCES INVESTMENT FUNDS PRODUCT ADVISORY COMMITTEE MEMBERS FOR 2013-2015

TORONTO – The Ontario Securities Commission (OSC) announced today the membership of the Investment Funds Product Advisory Committee (IFPAC) for the 2013-2015 term.

In an environment of rapid product growth and increasingly complex investment fund products, OSC staff recognize the unique perspective market participants may have in identifying and anticipating market and product trends. The IFPAC will continue to advise OSC staff on emerging product developments and innovations occurring in the investment fund industry. The committee will discuss the impact of these developments, as well as emerging issues.

Serving two year terms and meeting at least four times a year, IFPAC members bring a broad range of experience from the investment funds industry to this important OSC committee.

The IFPAC is currently chaired by Rhonda Goldberg, Director, Investment Funds Branch. Effective immediately, the committee members are:

Ghassan (Jason) Agaby	Dynamic Funds
Roland P. Austrup	Integrated Managed Futures Corp.
Adam Felesky	Horizons Exchange Traded Funds (ETFs)
Goshka Folda	Investor Economics
Kevin Gopaul	BMO Asset Management
Barry Gordon	First Asset Capital Corp.
Scott McBurney	RBC Capital Markets
Gary Ostoich	Spartan Fund Management Inc. & Alternative Investment Management Association Canada
Marian Passmore	Canadian Foundation for Advancement of Investor Rights (FAIR Canada)
Michael Shuh	CIBC World Markets Inc.
Oricia Smith	Invesco Canada Ltd.
Atul Tiwari	Vanguard Investments Canada Inc.

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1.3.4 Canadian Securities Regulators Will Not Implement Proposed Rule for Venture Issuers

FOR IMMEDIATE RELEASE
July 25, 2013

CANADIAN SECURITIES REGULATORS WILL NOT IMPLEMENT PROPOSED RULE FOR VENTURE ISSUERS

Calgary – The Canadian Securities Administrators (CSA) today announced that they will not pursue implementation of proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (NI 51-103).

NI 51-103 was to introduce, among other things, a new tailored regulatory regime for venture issuers that was intended to streamline venture issuer disclosure to reflect the needs and expectations of venture issuer investors. The regime was also intended to make disclosure requirements more suitable and manageable for venture issuers at this stage of their development.

Although market participants supported many aspects of proposed NI 51-103, they raised significant concerns about the burden that transitioning to a new regime and having a mandatory annual report would place on venture issuers. After reviewing the comments received and further consideration, the CSA determined not to pursue implementation of proposed NI 51-103.

The CSA is considering implementing some of the proposals within proposed NI 51-103 as amendments to the existing regulatory regime for venture issuers. Any resulting proposed amendments would be published for comment, as necessary.

CSA Notice 51-340 announcing this decision has been posted to various CSA member websites.

The CSA, the council of the securities regulators of Canada's provinces and territories, coordinates and harmonizes regulation for the Canadian capital markets.

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Ainsley Cunningham
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Wendy Connors-Beckett
Financial and Consumer Services Commission,
New Brunswick
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Donn MacDougall
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Government of the Northwest Territories
867-920-8984

1.4 Notices from the Office of the Secretary

1.4.1 Bunting & Waddington Inc. et al.

FOR IMMEDIATE RELEASE
July 17, 2013

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

AND

IN THE MATTER OF
BUNTING & WADDINGTON INC.,
ARVIND SANMUGAM and JULIE WINGET

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

1. Staff's application to convert the portion of this proceeding against Sanmugam from an oral hearing to a written hearing is granted, pursuant to Rule 11 of the *Rules of Procedure* (the "Written Hearing");

2. Staff's submissions in respect of the Written Hearing shall be served and filed no later than July 26, 2013;

3. Sanmugam's responding submissions in respect of the Written Hearing shall be served and filed by August 30, 2013; and

4. the confidential pre-hearing conference shall be adjourned to September 12, 2013 at 11:00 a.m. to provide the panel with a status update.

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

A copy of the Order dated July 16, 2013 is available at www.osc.gov.on.ca.

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1.4.2 Heritage Education Funds Inc.

FOR IMMEDIATE RELEASE
July 17, 2013

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

AND

IN THE MATTER OF
HERITAGE EDUCATION FUNDS INC.

TORONTO – The Commission issued an Order in the above named matter pursuant to section 127 of the Act which provides that:

1. the Temporary Order is extended to September 9, 2013, or until such further order of the Commission;

2. the hearing is adjourned to September 6, 2013 at 10:00 a.m.; and

3. the hearing date of July 18, 2013 at 10:00 a.m. is vacated.

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

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1.4.3 Onix International Inc. and Tyrone Constantine Phipps

FOR IMMEDIATE RELEASE
July 17, 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

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
ONIX INTERNATIONAL INC. AND
TYRONE CONSTANTINE PHIPPS

TORONTO – Following a hearing held on July 16, 2013, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Onix International Inc. and Tyrone Constantine Phipps.

The Order also provides that the Merits Hearing Dates are vacated.

A copy of the Order dated July 16, 2013 and Settlement Agreement dated June 21, 2013 are available at www.osc.gov.on.ca.

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1.4.4 Ernst & Young LLP (Audits of Zungui Haixi Corporation)

FOR IMMEDIATE RELEASE
July 17, 2013

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

AND

IN THE MATTER OF
ERNST & YOUNG LLP
(AUDITS OF ZUNGUI HAIXI CORPORATION)

TORONTO – The Commission issued an Order in the above named matter which provides that this matter is adjourned to a confidential Pre-Hearing Conference to be held on Monday, September 30, 2013 at 11:00 a.m.

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

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

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1.4.5 Rezwealth Financial Services Inc. et al.

FOR IMMEDIATE RELEASE
July 18, 2013

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

AND

IN THE MATTER OF
REZWEALTH FINANCIAL SERVICES INC.,
PAMELA RAMOUTAR, JUSTIN RAMOUTAR,
TIFFIN FINANCIAL CORPORATION, DANIEL TIFFIN,
2150129 ONTARIO INC., SYLVAN BLACKETT,
1778445 ONTARIO INC. and WILLOUGHBY SMITH

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 August 8, 2013;

2. the Respondents shall serve and file written submissions on sanctions and costs by 4:00 p.m. on August 29, 2013;

3. Staff shall serve and file reply written submissions on sanctions and costs, if any, by 4:00 p.m. on September 9, 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 September 17, at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary;

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; and

6. pursuant to subsections 127(1), (7) and (8) of the Act, the Amended Temporary Order is extended until the conclusion of the sanctions and costs hearing.

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

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1.4.6 Global Consulting and Financial Services et al.

FOR IMMEDIATE RELEASE
July 18, 2013

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA and
LORNE BANKS

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
LORNE BANKS

TORONTO – Following a hearing held on July 17, 2013, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Lorne Banks.

A copy of the Order dated July 17, 2013 and Settlement Agreement dated July 4, 2013 are available at www.osc.gov.on.ca.

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1.4.7 AMTE Services Inc. et al.

FOR IMMEDIATE RELEASE
July 19, 2013

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

AND

IN THE MATTER OF
AMTE SERVICES INC.,
OSLER ENERGY CORPORATION,
RANJIT GREWAL, PHILLIP COLBERT
AND EDWARD OZGA

TORONTO – The Commission issued a Temporary Order in the above named matter which provides that the Temporary Order is extended until September 25, 2013 or until further order of the Commission and the hearing to consider a further extension of the Temporary Order is adjourned until September 23, 2013 at 10:00 a.m. or to such other date or time as provided by the Office of the Secretary and agreed to by the parties.

A copy of the Temporary Order dated July 19, 2013 is available at www.osc.gov.on.ca.

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1.4.8 Children's Education Funds Inc.

FOR IMMEDIATE RELEASE
July 19, 2013

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

AND

IN THE MATTER OF
CHILDREN'S EDUCATION FUNDS INC.

TORONTO – The Commission issued an Order in the above named matter pursuant to section 127 of the Act which provides that:

1. paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the Terms and Conditions are deleted;

2. paragraph 12 of the Terms and Conditions is deleted and replaced with "12.1 CEFI is prohibited from opening any new branch locations unless the Consultant has provided a letter in writing to the OSC Manager, in respect of each proposed new branch location, confirming that the new branch location has a suitable branch manager and that CEFI has sufficient compliance resources to oversee the proposed new branch location.";

3. the Temporary Order is extended to August, 28, 2013; and

4. the hearing in this matter is adjourned to August 26, 2013 at 10:00 a.m.

A copy of the Order dated July 19, 2013 is available at www.osc.gov.on.ca.

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1.4.9 TD Securities Inc. et al.

FOR IMMEDIATE RELEASE
July 22, 2013

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

AND

IN THE MATTER OF
AN APPLICATION FOR A HEARING AND REVIEW
OF A DECISION OF A HEARING PANEL OF
THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA

AND

IN THE MATTER OF
THE UNIVERSAL MARKET INTEGRITY RULES

AND

IN THE MATTER OF
TD SECURITIES INC., KENNETH NOTT,
AIDIN SADEGHI, CHRISTOPHER KAPLAN,
ROBERT NEMY and JAKE POULSTRUP

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

A copy of the Reasons and Decision dated July 19, 2013 is available at www.osc.gov.on.ca.

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1.4.10 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
July 22, 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 August 13, 2013, at 3:30 p.m., or such other date and time as agreed to by the parties and set by the Office of the Secretary, at which time dates for the hearing on the merits will be set.

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

A copy of the Order dated July 19, 2013 is available at www.osc.gov.on.ca.

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1-877-785-1555 (Toll Free)

1.4.11 Pro-Financial Asset Management Inc.

FOR IMMEDIATE RELEASE
July 22, 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 an Order in the above named matter which provides that:

1. the Temporary Order is extended to August 26, 2013;

2. Staff is granted leave to file written submissions on PFAM's motion by Wednesday, July 24, 2014 and PFAM is granted leave to file reply submissions by Friday, July 26, 2013;

3. the Staff Affidavits, the transcript of the PFAM Motion, the PFAM Materials, any written submissions filed by Staff or reply submissions filed by PFAM and other documents presented in the course of the PFAM Motion shall be treated as confidential documents until further direction or order of the Commission; and

4. the hearing to consider whether to: (i) further extend or vary the terms of the Temporary Order; (ii) make any further order as to PFAM's registration; (iii) review PFAM's plan for a sale of PFAM's assets; and/or (iv) consider whether to order PFAM to deliver the final PPN reconciliation report to Staff, will proceed on August 23, 2013 at 10:00 a.m.

A copy of the Order dated July 22, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.12 David M. O'Brien

FOR IMMEDIATE RELEASE
July 23, 2013

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

AND

IN THE MATTER OF
DAVID M. O'BRIEN

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

1. a confidential pre-hearing conference shall take place on September 30, 2013 at 10:00 a.m.;

2. O'Brien shall file and serve any materials on which he intends to rely at the pre-hearing conference by September 23, 2013; and

3. the records from the July 18, 2013 and September 30, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the Rules of Procedure.

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

A copy of the Order dated July 18, 2013 is available at www.osc.gov.on.ca.

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SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 WPT Industrial Real Estate Investment Trust

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granted from requirement to provide certain audited financial statements of the acquired business in a BAR – filer acquired properties that have been owned by multiple owners over previous two years – comparative period financial statements impractical to prepare – filer granted relief to include alternative financial information as financial statement disclosure for a significant acquisition.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

July 10, 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
WPT INDUSTRIAL REAL ESTATE INVESTMENT TRUST
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief pursuant to Part 13 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) from certain requirements in Item 3 of Form 51-102F4 and Part 8 of NI 51-102 in respect of a business acquisition report (the **BAR**) required to be filed by the Filer in connection with the Acquisition (as defined below), provided that the BAR in connection with the completion on April 26, 2013 of the initial public offering (the **Offering**) of 10,000,000 trust units of the Filer, and the indirect acquisition (the **Acquisition**) by WPT Industrial, LP (the **Partnership**) (the Filer's operating subsidiary) from Welsh Property Trust, LLC (**Welsh**) of a portfolio of 35 industrial properties and two office buildings located in the United States (the **Initial Properties**) includes the Proposed Financial Statements (as defined below) (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 the 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 each of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Nunavut, the Northwest Territories and Yukon Territory.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. The Filer is an open-ended real estate investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated as of March 4, 2013, as amended and restated on April 26, 2013.

2. The Filer is a reporting issuer in each of the provinces and territories of Canada and is not in default of its reporting issuer obligations under the securities legislation of any of the jurisdictions of Canada.

3. The Filer's trust units are listed and posted for trading on the Toronto Stock Exchange under the symbol "WIR.U" and trade in the United States on the OTCQX marketplace under the symbol "WPTIF".

4. The final prospectus of the Filer for the Offering (the **Final Prospectus**) was filed in each of the provinces and territories of Canada on April 18, 2013.

5. On April 26, 2013, the Filer announced the completion of the Offering and the Acquisition.

6. Prior to the closing of the Offering and the Acquisition, Welsh indirectly owned all of the Initial Properties, including the Specified Initial Properties and the Additional Specified Properties (each, as defined below).

7. The Specified Initial Properties and the Additional Specified Properties were acquired by Welsh in 2011, 2012 or 2013.

8. Pursuant to the Acquisition, the Partnership (the Filer's operating subsidiary) indirectly acquired from Welsh all of the Initial Properties, representing a portfolio of 35 industrial properties and two office buildings located in the United States.

9. Audited financial statements in respect of 12 of the Initial Properties (the **Specified Initial Properties**) for all periods prior to acquisition by Welsh do not exist and it would be impracticable to produce audited financial statements for the Specified Initial Properties for such periods for the reasons specified below.

10. Audited financial statements in respect of two of the Initial Properties (which are not Specified Initial Properties) (the **Additional Specified Properties**) for a portion of the periods prior to acquisition by Welsh do not exist and it would be impracticable to produce audited financial statements for the Additional Specified Properties for such periods for the reasons specified below.

11. The Filer has concluded that the Acquisition will constitute a significant acquisition. Accordingly, the Filer will be required to file a BAR in respect of the Acquisition.

12. Welsh, being aware of the requirements under NI 51-102, held discussions with the different vendors of the Initial Properties regarding these requirements and the type of financial disclosure required in order to satisfy the Filer's requirements under NI 51-102. In the course of these discussions, certain vendors advised Welsh of certain facts that would make it impracticable to produce audited financial statements for certain of the Initial Properties in respect of periods prior to acquisition by Welsh.

13. The Filer has advised that it would be impracticable to produce audited financial statements for the Specified Initial Properties in respect of all periods prior to acquisition by Welsh and for the Additional Specified Properties in respect of a portion of the periods prior to acquisition by Welsh for the following reasons:

    (a) The Filer does not possess nor does it have access to or is it entitled to obtain access to, sufficient financial information for the Specified Initial Properties for any period prior to acquisition by Welsh in order to prepare the financial statements required under Part 8 of NI 51-102 in respect of the Specified Initial Properties for such periods prior to acquisition by Welsh.

    (b) The Filer does not possess nor does it have access to or is it entitled to obtain access to, sufficient financial information for the Additional Specified Properties for a portion of the period prior to acquisition by Welsh in order to prepare the financial statements required under Part 8 of NI 51-102 in respect of the Additional Specified Properties for such portions of the periods prior to acquisition by Welsh.

(c) Prior to acquisition by Welsh, the Specified Initial Properties and the Additional Specified Properties were owned and managed by a number of different vendors. Welsh has exerted considerable effort to try to obtain a two-year financial history for each of the Specified Initial Properties and the Additional Specified Properties from each of these vendors. However, many of the vendors have advised Welsh that sufficient historical financial information to conduct a full two-year audit is not available or will not be provided by the vendor.

(d) In certain circumstances where certain information for a particular Specified Initial Property or Additional Specified Property, as applicable, has been made available by the vendor, the vendor is either unwilling and/or does not have the internal resources to produce the additional details required to apply substantive audit procedures to support the information and complete the audit.

(e) Several vendors have refused to provide Welsh with information regarding debt and equity related to the Specified Initial Properties or the Additional Specified Properties, as applicable, claiming that such information is proprietary to the vendor. Accordingly, a complete audit of the statement of financial position for those Specified Initial Properties and Additional Specified Properties will be impracticable.

14. The Filer has also made the following submissions:

(a) Industrial properties are a stable asset class. The reasons for this include their "triple-net" lease structure (these types of leases are usually with credit-worthy tenants, with lease terms generally ranging from five to 10 years, and that there is more cash flow predictability and certainty because of the passing through of most costs to the tenant); the fact that tenant moving costs are generally high in the industrial sector due to high levels of investment by tenants in specialty equipment, further supporting the fact that tenancies tend to be longer term; and the fact that industrial properties have historically lower vacancy rates as compared with office and retail classes of real estate.

(b) The business of owning and leasing industrial properties is not seasonal. Additionally, the Filer believes the business of owning and leasing industrial properties is a relatively straightforward and predictable business as compared with other businesses that may be more variable year-to-year.

(c) In making the investment decision to acquire the Specified Initial Properties and the Additional Specified Properties, audited historical financial statements were not required by Welsh and were not relevant to the investment decision made by Welsh to acquire the Specified Initial Properties and the Additional Specified Properties in which it had an interest. Instead, other information was relied upon for this purpose as part of Welsh's due diligence procedures. Accordingly, given that such audited financial statements were not considered relevant to the investment decision made to acquire such interests in the Specified Initial Properties and the Additional Specified Properties, the Filer does not believe such audited financial statements for periods prior to acquisition by Welsh are material to the investment decision to be made by a potential investor in the Filer, particularly when compared with the other financial information the Filer intends to provide in the BAR. Furthermore, historical financial disclosure for individual real estate assets does not take into account the manner in which the acquirer will operate the properties post-acquisition, including the indebtedness that will exist with respect to the properties.

(d) The *pro forma* financial statements of the Filer to be included in the BAR will provide a more meaningful representation of the financial performance of the Specified Initial Properties and the Additional Specified Properties than the historical financial statements would have provided, because the *pro forma* financial statements more closely reflect the actual indebtedness and expenses associated with the properties and reflect other factors that are relevant to how the Specified Initial Properties and the Additional Specified Properties are expected to be operated by the Filer in the future, as described in the notes describing the *pro forma* assumptions and adjustments.

(e) The Filer will also incorporate by reference into the BAR the financial forecast included in the Final Prospectus for each of the quarters ended June 30, 2013, September 30, 2013, December 31, 2013 and March 31, 2014 and for the 12-month period ended March 31, 2014, which will include information on all of the Initial Properties and will be accompanied by a signed auditor's report with respect to the examination of the forecast made by the Filer's auditors.

(f) The BAR will incorporate by reference from the Final Prospectus the descriptions of the appraisals completed by a third party appraiser for each of the Initial Properties. A copy of each of such appraisals is available under the Filer's profile on the SEDAR website at www.sedar.com with certain information redacted.

(g) The same asset manager, Welsh, that managed the Specified Initial Properties and the Additional Specified Properties prior to their indirect acquisition by the Partnership (the Filer's operating subsidiary) on the closing

of the Offering continues to provide asset management services to the Filer with respect to those same properties. Continuity of management also exists at the property management level, since the same individuals involved in managing the Specified Initial Properties and the Additional Specified Properties prior to their indirect acquisition by the Partnership are presently involved in managing the Specified Initial Properties and the Additional Specified Properties. Financial statements for the Specified Initial Properties and the Additional Specified Properties for periods prior to ownership by the Filer would not reflect the manner in which such properties would have been operated by the Filer.

(h) The financial statements proposed to be included or incorporated by reference in the BAR will provide sufficient historical information for an investor to make an informed decision regarding the Initial Properties as a portfolio. The financial statements proposed to be included or incorporated by reference in the BAR for the applicable Initial Properties will show the most relevant information on the Initial Properties (revenues and direct expenses). Outside of revenues and the direct expenses associated with the Initial Properties, the previous owner's historical financial information is not relevant to the Filer's prospects in owning the property. This is especially true where the properties were acquired on an individual basis from unrelated vendors who may have had very different overhead and non-operating expenses.

15. Following the Acquisition, the Filer is consolidating all of the Initial Properties for financial reporting purposes, including for its financial statements to be filed on SEDAR in accordance with the Filer's continuous disclosure obligations under NI 51-102.

16. Sections 8.4(1) and 8.4(2) of NI 51-102 require that the Filer include in the BAR, the following annual financial statements of the Initial Properties:

(a) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for (i) the year ended December 31, 2012 (audited); and (ii) the year ended December 31, 2011 (not required to be audited);

(b) a statement of financial position as at December 31, 2012 (audited) and December 31, 2011 (not required to be audited); and

(c) notes to the required financial statements.

17. Section 8.4(3) of NI 51-102 requires that the Filer include the following interim financial statements of the Initial Properties:

(a) an unaudited statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the three months ended March 31, 2013 and March 31, 2012; and

(b) an unaudited statement of financial position as at March 31, 2013 and December 31, 2012.

18. Section 8.4(5) of NI 51-102 requires that the Filer include the following *pro forma* financial statements of the Filer:

(a) a *pro forma* statement of financial position of the Filer as at March 31, 2013 that gives effect, as if the Acquisition had taken place as at the date of the *pro forma* statement of financial position, to the Acquisition; and

(b) a *pro forma* income statement of the Filer that gives effect to the Acquisition as if it had taken place on January 1, 2012 for (i) the year ended December 31, 2012; and (ii) the interim period ended March 31, 2013.

19. The Filer proposes to include (or incorporate by reference) the following historical financial statements in the BAR (collectively, the **Proposed Financial Statements**) (which Proposed Financial Statements (other than the proposed financial disclosure for the 3003 Reeves Road Property and the 6579 West 350 North Property) will be prepared in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board):

(a) Carve-Out Financial Statements of the Welsh Initial Properties

- Audited carve-out statements of income and comprehensive income, divisional surplus and cash flows of the Welsh Initial Properties for the years ended December 31, 2012 and December 31, 2011.

- Audited carve-out statements of financial position of the Welsh Initial Properties at December 31, 2012 and December 31, 2011.

- Unaudited carve-out statements of income and comprehensive income, divisional surplus and cash flows of the Welsh Initial Properties for the three months ended March 31, 2013 and March 31, 2012.

- Unaudited carve-out statements of financial position of the Welsh Initial Properties at March 31, 2013.

(b) Welsh Predecessor Properties

- Audited combined statements of income and comprehensive income, divisional surplus and cash flows of the applicable Welsh Predecessor Properties for the period from January 1, 2011 to August 31, 2011.

- Audited combined statement of financial position for the applicable Welsh Predecessor Properties at August 31, 2011.

(c) 3003 Reeves Road Property

- Audited schedule of revenues and operating expenses for the period from January 1, 2011 to July 31, 2011.

- Audited schedule of assets to be acquired and liabilities to be assumed at July 31, 2011.

The audit opinion on these schedules indicates that these schedules were prepared to present the assets to be acquired and liabilities to be assumed by the Filer and revenues and operating expenses of the 3003 Reeves Road Property and references a note describing the basis of accounting for these schedules. The notes indicate that:

- The schedule of assets to be acquired and liabilities to be assumed and schedule of revenues and operating expenses are prepared in accordance with the recognition and measurement principles of IFRS.

- The line items in the schedule of assets to be acquired and liabilities to be assumed and schedule of revenues and operating expenses and the disclosures in the notes thereto have been prepared using presentation and disclosure requirements in accordance with IFRS and would apply to those line items and disclosures if those line items and disclosures were presented as part of a complete set of financial statements prepared in accordance with IFRS.

(d) 6579 West 350 North Property

- Audited schedule of revenues and operating expenses for the period from January 1, 2011 to September 20, 2011.

- Audited schedule of assets to be acquired and liabilities to be assumed at September 20, 2011.

The audit opinion on these schedules indicates that these schedules were prepared to present the assets to be acquired and liabilities to be assumed by the Filer and revenues and operating expenses of the 6579 West 350 North Property and references a note describing the basis of accounting for these schedules. The notes indicate that:

- The schedule of assets to be acquired and liabilities to be assumed and schedule of revenues and operating expenses are prepared in accordance with the recognition and measurement principles of IFRS.

- The line items in the schedule of assets to be acquired and liabilities to be assumed and schedule of revenues and operating expenses and the disclosures in the notes thereto have been prepared using presentation and disclosure requirements in accordance with IFRS and would apply to those line items and disclosures if those line items and disclosures were presented as part of a complete set of financial statements prepared in accordance with IFRS.

(e) Core Initial Properties

- Audited carve-out statements of income and comprehensive income, divisional surplus and cash flows for the years ended December 31, 2012 and December 31, 2011.
- Audited carve-out statements of financial position at December 31, 2012 and December 31, 2011.

(f) Hartman Property Portfolio Properties

- Audited carve-out statements of income and comprehensive income, divisional surplus and cash flows for the period from January 1, 2011 to July 7, 2011.
- Audited carve-out statement of financial position at July 7, 2011.

20. The Filer proposes to include (or incorporate by reference) the following unaudited *pro forma* financial statements of the Filer in the BAR:

- Unaudited *pro forma* condensed consolidated statement of financial position as at March 31, 2013.
- Unaudited *pro forma* condensed consolidated statement of income and comprehensive income for the year ended December 31, 2012.
- Unaudited *pro forma* condensed consolidated statement of income and comprehensive income for the three months ended March 31, 2013.

21. The Filer submits that the Exemption Sought would not be prejudicial to the public interest because the Proposed Financial Statements will provide investors with the information material to their understanding of the Initial Properties and the Filer believes that the presentation of financial statements prepared strictly in compliance with Section 8.4 of NI 51-102 would not be more meaningful or relevant to investors than the Proposed Financial Statements.

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 BAR for the Acquisition includes (or incorporates by reference):

1. The Proposed Financial Statements and the unaudited *pro forma* financial statements as set out in paragraphs 19 and 20.

2. The financial forecast included in the Final Prospectus for each of the quarters ended June 30, 2013, September 30, 2013, December 31, 2013 and March 31, 2014 and for the 12-month period ended March 31, 2014.

3. The descriptions of the appraisals included in the Final Prospectus completed by a third party appraiser for each of the Initial Properties.

"Sonny Randhawa"
Manager, Corporate Finance
Ontario Securities Commission

2.1.2 Choice Properties Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions – issuer holds all of its properties through limited partnership – entity holds units in limited partnership which are exchangeable into and in all material respects the economic equivalent to the issuer's publicly traded units – issuer may include entity's indirect interest in issuer when calculating market capitalization for the purposes of using the 25% market capitalization exemption for certain related party transactions – relief granted subject to conditions.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 5.5(a), 5.7(1)(a), 9.1.

July 18, 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
CHOICE PROPERTIES REAL ESTATE INVESTMENT TRUST
(THE "FILER")

DECISION

Background

The securities regulatory authority or regulator in the Jurisdiction ("**Decision Maker**") has received an application (the "**Application**") from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") that the Filer be granted an exemption pursuant to section 9.1 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") from the minority approval and formal valuation requirements under Part 5 of MI 61-101 relating to any related party transaction of the Filer entered into indirectly through Choice Properties Limited Partnership (the "**Partnership**") or any other subsidiary entity (as such term is defined in MI 61-101) of the Partnership, if that transaction would qualify for the transaction size exemptions set out in sections 5.5(a) and 5.7(1)(a) of MI 61-101 if the indirect equity interest in the Filer, which is held by Loblaw Companies Limited and its subsidiaries ("**Loblaw**") or any of its permitted transferees (as set out in subsection 5.8(b) of the Partnership Agreement (as defined below)), in the form of exchangeable Class B limited partnership units of the Partnership, was included in the calculation of the Filer's market capitalization (the "**Requested Relief**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

(a) the Ontario Securities Commission is the principal regulator for the 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 Quebec.

Interpretation

Terms defined in National Instrument 14-101 – *Definitions*, MI 11-102 and MI 61-101 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 an unincorporated, open-ended real estate investment trust established under the laws of the Province of Ontario. The Filer was established pursuant to a declaration of trust dated May 21, 2013.

2. The Filer's head office is located at 22 St. Clair Avenue East, Suite 800, Toronto, Ontario, M4T 2S5.

3. The Filer is a reporting issuer (or the equivalent thereof) in each of the Jurisdictions and is currently not in default of any applicable requirements of the securities legislation thereunder.

4. The Filer is authorized to issue an unlimited number of trust units ("**Units**") and an unlimited number of special voting units ("**Special Voting Units**"). As at the date hereof, the Filer has 87,500,000 Units and 272,497,871 Special Voting Units issued and outstanding. The number of Special Voting Units outstanding at any point in time is equivalent to, and accompanies, the number of Exchangeable LP Units (defined below) issued and outstanding.

5. The Units are listed and posted for trading on the Toronto Stock Exchange (the "**TSX**") under the trading symbol "CHP.UN".

6. The Partnership is a limited partnership formed under the laws of the Province of Ontario and is governed by an amended and restated limited partnership agreement dated as of July 5, 2013 (the "**Partnership Agreement**"). The Partnership's head office is located at 22 St. Clair Avenue East, Suite 800, Toronto, Ontario, M4T 2S5.

7. The Partnership is not a reporting issuer (or the equivalent thereof) in any jurisdiction and none of its securities are listed or posted for trading on any stock exchange or other market.

8. The Partnership is authorized to issue (i) an unlimited number of Class A limited partnership units ("**Class A LP Units**"), of which 87,500,000 Class A LP Units are issued and outstanding as at the date hereof and are held by the Filer, (ii) an unlimited number of exchangeable Class B limited partnership units ("**Exchangeable LP Units**"), of which 272,497,871 Exchangeable LP Units are issued and outstanding as at the date hereof and are held by Loblaw, and (iii) an unlimited number of Class C limited partnership units ("**Class C LP Units**"), of which 92,500,000 Class C LP Units are issued and outstanding as at the date hereof and are held by Loblaw. The Exchangeable LP Units were issued to Loblaw in connection with the Filer's acquisition of 425 properties (the "**Transaction**") from Loblaw on July 4, 2013.

9. The Exchangeable LP Units are intended to be, in all material respects, the economic equivalent of the Units. Holders of Exchangeable LP Units are entitled to receive distributions equal to those paid by the Filer to holders of Units. The Exchangeable LP Units are exchangeable into Units on a one-for-one basis subject to customary anti-dilution adjustments and each is accompanied by a Special Voting Unit that entitles the holder to receive notice of, attend and vote together with the holders of Units at all meetings of voting unitholders of the Filer. The Exchangeable LP Units are transferable, subject to the satisfaction of the applicable conditions set forth in the Partnership Agreement.

10. The operating business of the Filer is carried on by the Partnership. The principal activity of the Partnership is to own income-producing real estate assets.

11. The Filer currently holds 100% of the Class A LP Units of the Partnership, whereas Loblaw currently holds 100% of the Exchangeable LP Units and the Class C LP Units. As at the date thereof, Loblaw holds an approximate 81.7% effective interest in the Filer on a fully-diluted basis through ownership of 21,500,000 Units and all of the 272,497,871 issued and outstanding Exchangeable LP Units.

12. It is anticipated that the Filer may from time to time enter into transactions with certain related parties, including Loblaw or any of its subsidiaries.

13. If Part 5 of MI 61-101 applies to a related party transaction by an issuer and the transaction is not otherwise exempt:

    (a) the issuer must obtain a formal valuation of the transaction in a form satisfying the requirements of MI 61-101 by an independent valuator; and

    (b) the issuer must obtain approval of the transaction by disinterested holders of the affected securities of the issuer (requirements (a) and (b) are collectively referred to as the "**Minority Protections**").

14. A related party transaction that is subject to MI 61-101 may be exempt from the Minority Protections if, at the time the transaction is agreed to, neither the fair market value of the subject matter of, nor the fair market value of the

consideration for, the transaction, exceeds 25% of the issuer's market capitalization (the "**Transaction Size Exemption**").

15. The Filer may not be entitled to rely on the Transaction Size Exemption available under the Legislation from the requirements relating to related party transactions in the Legislation because the definition of "market capitalization" in the Legislation does not contemplate securities of another entity that are exchangeable into equity securities of the issuer.

16. The Exchangeable LP Units represent part of the equity value of the Filer and provide the holder of the Exchangeable LP Units with economic rights which are, in all material respects, equivalent to the Units. The effect of Loblaw's exchange right is that Loblaw will receive Units upon the exchange of the Exchangeable LP Units. Moreover, the economic interests that underlie the Exchangeable LP Units are identical to those underlying the Units; namely, the assets held directly or indirectly by the Partnership.

17. If the Exchangeable LP Units are not included in the market capitalization of the Filer, the equity value of the Filer will be understated by the value of Loblaw's Class B limited partnership interest in the Partnership (approximately 76%). As a result, related party transactions by the Filer may be subject to the Minority Protections in circumstances where the fair market value of the transactions is effectively less than 25% of the fully-diluted market capitalization of the Filer.

18. Section 1.4 of MI 61-101 treats an operating entity of an "income trust", as such term is defined in National Policy 41-201 – *Income Trusts and Other Indirect Offerings* ("**NP 41-201**"), on a consolidated basis with its parent trust entity for the purpose of determining which entities are related parties of the issuer and which transaction MI 61-101 should apply to. Section 1.2 of NP 41-201 provides that references to an "income trust" refer to a trust or other entity (including corporate and non-corporate entities) that issues securities which provide for participation by the holder in net cash flows generated by an underlying business owned by the trust or other entity. Therefore, it is consistent with MI 61-101 that securities of the operating entity, such as the Exchangeable LP Units, be treated on a consolidated basis for the purposes of the Transaction Size Exemption.

19. The inclusion of the Exchangeable LP Units when determining the Filer's market capitalization pursuant to MI 61-101 is consistent with the logic of including unlisted equity securities of the issuer which are convertible into listed securities of the issuer in determining an issuer's market capitalization in that both are securities that are considered part of the equity value of the issuer whose value is measured on the basis of the listed securities into which they are convertible or exchangeable.

Decision

The Decision Maker is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Maker under the Legislation is that the Requested Relief be granted to the Filer provided that:

(a) the applicable transaction would qualify for the Transaction Size Exemption contained in MI 61-101 if the Exchangeable LP Units were considered an outstanding class of equity securities of the Filer that were convertible into Units;

(b) there be no material change to the terms of the Exchangeable LP Units and the Special Voting Units, including the exchange rights associated therewith, as described above and in the Exchange Agreement dated July 5, 2013, filed in connection with the Transaction; and

(c) any annual information form or equivalent of the Filer that is required to be filed in accordance with applicable Canadian securities law contain the following disclosure, with any immaterial modifications as the context may require;

> "Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") provides a number of circumstances in which a transaction between an issuer and a related party may be subject to valuation and minority approval requirements. An exemption from such requirements is available when the fair market value of the transaction does not exceed 25% of the market capitalization of the issuer. Choice Properties Real Estate Investment Trust has been granted exemptive relief from the requirements of MI 61-101 that, subject to certain conditions, permits it to be exempt from the minority approval and valuation requirements for transactions that would have a value of less than 25% of Choice Properties Real Estate Investment Trust's market capitalization, if exchangeable Class B limited partnership units of Choice Properties

Limited Partnership held by Loblaw are included in the calculation of Choice Properties Real Estate Investment Trust's market capitalization. As a result, the 25% threshold, above which the minority approval and valuation requirements would apply, is increased to include the approximately 76% indirect exchangeable equity interest in Choice Properties Real Estate Investment Trust held by Loblaw in the form of exchangeable Class B limited partnership units of Choice Properties Limited Partnership."

"Naizam Kanji"
Deputy Director, Corporate Finance
Ontario Securities Commission

2.1.3 Elemental Minerals Limited

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application by an issuer for a decision that draft versions of a news release inadvertently filed and made public on SEDAR be held in confidence for an indefinite period by the Commission, to the extent permitted by law – Issuer subsequently filed and made public on SEDAR correct, final versions of news release – Relief granted.

Applicable Ontario Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 140(1), 140(2).

July 19, 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
ELEMENTAL MINERALS LIMITED
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that, pursuant to the confidentiality provisions of the Legislation (being subsection 140(2) of the *Securities Act* (Ontario)), the version of the Filer's news release filed on April 8, 2013 was incomplete (the "**Incomplete News Release**") and erroneously filed on the System for Electronic Document Analysis and Retrieval ("**SEDAR**") by CNW Group (the "**Filing Agent**") without receiving the proper authorization to release, be held in confidence (and therefore not available to the public) for an indefinite period, to the extent permitted by law (the "**Exemption Sought**").

Under National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

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

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

Interpretation

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

Representations

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

1. The Filer is incorporated under the laws of Australia. The Filer is an advanced stage mineral exploration and development company.

2. The registered office of the Filer is located in Perth, Australia and the head office of the Filer is located in Dainfern, South Africa.

3. The Filer's shares are listed on the Australian Securities Exchange (the "**ASX**"), Toronto Stock Exchange (the "**TSX**") and Frankfurt Stock Exchange. The Filer is a reporting issuer in Ontario and the Non-Principal Passport Jurisdictions.

4. Following the close of trading on the TSX on April 8, 2013, the Filing Agent filed the Incomplete News Release containing certain drilling results on SEDAR in accordance with National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**").

5. Shortly after such filing, it came to the attention of the Filing Agent that Barnes Communications, the Filer's agent with whom the Filing Agent had been in contact, had not given the final authorization to the Filing Agent to file the Incomplete News Release and that the Incomplete News Release had therefore been erroneously filed on SEDAR.

6. On the morning of April 9, 2013, Barnes Communications re-confirmed that the Incomplete News Release should not have been filed on SEDAR as they were still awaiting final approval from the Filer's board of directors and management who is predominately based in South Africa and Australia. The Incomplete News Release did not yet have final approval of the Filer's board of directors for release, nor was it

capable of release as the content of the Incomplete News Release did not include final sign off from the Filer's "Competent Person" (terminology in Australia) nor from a "qualified person" (as such term is defined in National Instrument 43-101 *Standards of Disclosure for Mineral Projects* ("**NI 43-101**") and insertion of the "Competent Person" statement into the Incomplete News Release. For these reasons, the Filer had entered "halt" status with the ASX to allow the Filer to get the Incomplete News Release into a form capable of release to the ASX.

7. Following the Filing Agent's correspondence with Barnes Communications, the Filing Agent contacted the Principal Regulator in an attempt to make the Incomplete News Release private prior to the commencing of trading on the TSX. This request was unable to be accommodated prior to the commencing of trading.

8. Throughout the morning on April 9, 2013, Stikeman Elliott LLP ("**Stikeman**"), the Filer's Canadian legal counsel, contacted Market Surveillance at the Investment Industry Regulatory Organization of Canada ("**IIROC**") to discuss the potential selective disclosure issue resulting from the Incomplete News Release having been filed on SEDAR without having been generally disseminated over a news wire service. Stikeman and IIROC agreed that, given an approximately 14% increase in the Filer's trading price on the TSX, the most prudent course of action was to disseminate the news release across a national news wire service as quickly as possible so as to comply with the Filer's continuous disclosure obligations. An updated version of the Incomplete News Release (the "**Updated News Release**") was filed on SEDAR by the Filing Agent on April 9, 2013 at 12:31 p.m. EST.

9. On April 9, 2013, the Principal Regulator temporarily marked the Incomplete News Release as private on SEDAR, pending the receipt and review of a formal application for exemptive relief from the Filer. As a result, as of April 9, 2013, the Incomplete News Release no longer appears under the Filer's profile on SEDAR.

10. The Filer believes that continued public access to the Incomplete News Release would seriously prejudice the interests of the Filer for the following reasons:

    (a) as a result of filing the Incomplete News Release, the Filer could face penalties from the ASX given that it was during a trading halt at the time of the filing;

    (b) the Incomplete News Release has been superseded in its entirety by the Updated News Release and leaving both the Incomplete News Release and Updated News Release on SEDAR would cause confusion amongst investors;

    (c) the negative implications to the Filer and the investing public if the Incomplete News Release were to remain public outweigh the desirability of adhering to the principle that material filed with the Principal Regulator be available to the public for inspection and the disclosure of the Incomplete News Release is not necessary in the public interest;

    (d) as of April 9, 2013, the Filer has fully complied with its disclosure obligations under NI 51-102 by filing the Updated News Release. The Updated News Release contains additional information which was omitted from the Incomplete News Release, including a detailed outline of the Filer's Kola Project Summary and the "Competent Person" statement (required by the ASX) and the "qualified person" statement (as per NI 43-101); and

    (e) the Incomplete News Release is not material to an investor, and the making and keeping private of the Incomplete News Release will not adversely affect investors or impact the decision by an investor for the purposes of making an investment decision with respect to the filer and therefore there will be no prejudice or harm to the public as a result of the Incomplete News Release remaining private.

11. The Filer is not in default of its obligations under the securities legislation of any jurisdiction of Canada.

12. The Filer acknowledges that making the Incomplete News Release private on SEDAR does not guarantee that such versions of the Incomplete News Release are not available elsewhere in the public domain.

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.

"Sarah B. Kavanagh"
Commissioner

"Deborah Leckman"
Commissioner

2.1.4 True North Apartment Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from provisions of section 8.4 of National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102) permitting filer to include alternative financial disclosure in business acquisition report pursuant to section 13.1 of NI 51-102 – filer acquired properties that have been owned by multiple owners over previous two years – comparative period financial statements impractical to prepare and potentially confusing to investors – recent audited interim financial statements for properties provided.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

July 19, 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
TRUE NORTH APARTMENT
REAL ESTATE INVESTMENT TRUST
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an order under section 13.1 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) exempting the Filer from the requirements of subsection 8.4(1) of NI 51-102 for the Acquisition (defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

1. The Filer is an unincorporated open-end real estate investment trust established under the laws of the province of Ontario. The Filer's registered and head office is located at 401 The West Mall, Suite 1100, Toronto, Ontario, M9C 5J5.

2. On June 5, 2012, Wand Capital Corporation completed its capital pool company qualifying transaction by way of a plan of arrangement with the Filer under the *Business Corporations Act* (Ontario). As a result, the Filer became a reporting issuer in each of British Columbia, Alberta and Ontario. On July 11, 2012, upon the issuance of a receipt for a (final) short form prospectus, the Filer became a reporting issuer in every province and territory of Canada.

3. The units of the Filer (**Units**) were listed on the TSX Venture Exchange (**TSXV**) from June 11, 2012 until May 2, 2013. On May 3, 2012, the Units were delisted from, and ceased trading on the TSXV, and commenced trading on the Toronto Stock Exchange under the symbol "TN.UN".

4. The Filer is currently not in default of any applicable requirements under the securities legislation of any province or territory of Canada, except that the Filer is in default of its continuous disclosure obligations with respect to the requirement to file a business acquisition report (**BAR**) under Part 8 of NI 51-102 related to the Acquisiton.

5. The Filer was established to own multi-suite residential rental properties across Canada, the United States and in such other jurisdictions where opportunities may arise, subject to the terms set out in its declaration of trust. Immediately prior to the Acquisition (defined below), the Filer owned an aggregate of 3,953 residential suites located in Ontario, Québec, New Brunswick and Nova Scotia.

6. On February 20, 2013, the Filer completed its previously announced acquisition of 17 properties (the **Properties**) from D.D. Acquisitions Partnership (the Vendor) for a purchase price of approximately $152.2 million (the **Acquisition**).

7. The Vendor is a company incorporated under the laws of the province of Ontario and is the asset manager of the Filer. The Vendor is controlled by Daniel Drimmer, who is also a trustee of the Filer.

8. A special committee of independent trustees of the Filer was established for the purposes of supervising the process carried out by the Filer and its professional advisors in connection with the Acquisition, to make recommendations to the trustees of the Filer in respect of matters that it considered relevant with respect to the Acquisition, and to ensure that the Filer completed the acquisition in compliance with the requirements of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (**MI 61-101**), the applicable policies of the TSXV and applicable law. The special committee retained third parties to provide independent appraisals, environmental assessments and building condition assessments for each of the Properties.

9. As the Acquisition was considered a “related party transaction” under MI 61-101, the Filer was required to obtain prior approval of the Acquisition by a majority of the minority holders of Units (**Unitholders**) of the Filer at a special meeting of Unitholders held on Tuesday, February 19, 2013. The Acquisition received the requisite Unitholder approval, with approximately 99% of the Unitholders at the meeting (excluding Mr. Drimmer and his affiliates), in person or by proxy, voting in favour.

10. To finance a portion of the Acquisition, the Filer completed a “bought deal” public offering of 15,950,500 subscription receipts on January 30, 2013 for aggregate gross proceeds of approximately $63.8 million.

11. The Acquisition constitutes the “acquisition of related businesses” pursuant to section 8.1 of NI 51-102 and a “significant acquisition” of the Filer for the purposes of NI 51-102, as determined in accordance with the significance tests prescribed by section 8.3 of NI 51-102. The Filer was required to file a BAR within 75 days of the completion of the Acquisition pursuant to section 8.2 of NI 51-102.

12. Pursuant to subsection 8.4(1) of NI 51-102, a BAR must include the following for each business or related business that is acquired:

    (i) audited financial statements (i.e., a statement of financial position, a statement of comprehensive income, a statement of changes in equity and a statement of cash flows) for the most recently completed financial year of the business acquired; and

    (ii) unaudited financial statements for the financial year immediately preceding the most recently completed financial year of the business acquired;

    (collectively, the **BAR Financial Statement Requirements**).

13. Subsection 8.4(8) of NI 51-102 provides that if a reporting issuer is required to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statements must be presented separately for each business, except for the periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the business on a combined basis.

14. The Vendor acquired the Properties over a period extending between December 2002 and January 2012. Specifically:

    (a) seven properties were acquired either by the Vendor or a related party prior to 2010 (the **Older Properties**) and represent approximately 40% of the value of the Acquisition;

    (b) nine properties were acquired by the Vendor in the latter half of 2011 and one property was acquired in January 2012 (the **Recently Acquired Properties**), and represent approximately 60% of the value of the Acquisition.

15. The Older Properties have been under control of the Vendor or a related party of the Vendor for a sufficient period of time to permit the preparation of financial statements in compliance with the BAR Financial Statement Requirements.

16. In connection with the Vendor's acquisition of each Recently Acquired Property, the Vendor requested copies of audited annual financial statements from the original owner. However, in each case, the Vendor was unable to obtain the financial statements or sufficient financial records to allow the financial statements to be reconstructed by the Vendor. As a result, the Filer does not have the financial statements for the Recently Acquired Properties in order to satisfy the BAR Financial Statement Requirements.

17. On May 13, 2013, the Filer filed an amended and restated BAR (the Amended and Restated BAR) that included the following alternative disclosure regarding the Properties, in lieu of the financial statements otherwise required by section 8.4 of NI 51-102 (the **Alternative Disclosure**):

    (a) audited annual carve-out financial statements for the year ended December 31, 2011 for the Older Properties (and reflecting the purchase of the nine Recently Acquired Properties that were acquired by the Vendor between October 18, 2011 and December 19, 2011) with unaudited comparative financial statements for the Older Properties;

    (b) audited annual carve-out financial statements for the Properties for the year ended December 31, 2012 (and reflecting the purchase of the one of the Recently Acquired Properties acquired by the Vendor on January 31, 2012);

    (c) an unaudited *pro forma* statement of financial position as at December 31, 2012, and an unaudited *pro forma* statement of income and comprehensive income for the year ended December 31, 2012 as if the Acquisition had taken place January 1, 2012, prepared in accordance with subsection 8.4(5) of NI 51-102; and

    (d) a nine month ended (January 1, 2013 - September 30, 2013) forecast of net operating income for all of the Properties, on an aggregate basis which, for greater certainty, would include revenue and operating expenses at the property level, but would not include allocated or incremental corporate or trust expenses, or financing costs associated with completing the acquisition.

    In addition, the Amended and Restated BAR also included:

    (e) a description of any prior appraisals for the Properties of which the Filer is aware and which were conducted within the previous two years;

    (f) the current independent property appraisals conducted by CBRE Limited regarding each of the Properties;

    (g) a description of the current environmental site reconnaissance letters prepared by an independent environmental consultant regarding each of the Properties;

    (h) a description of each building condition assessment report prepared by an independent consultant regarding each of the Properties, including recent capital expenditures made by the Vendor and identified capital expenditures recommended by the consultant over the next ten years; and

(i) disclosure of the fact that the existing historical accounting records for each Recently Acquired Property are not sufficient to create audited financial statements for each property.

18. Each of the financial statements referred to in paragraph 17 have been prepared in accordance with Canadian GAAP applicable to publicly accounted enterprises.

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 the Amended and Restated BAR continues to contain the Alternative Disclosure.

“Sonny Randhawa”
Manager, Corporate Finance

2.1.5 I.G. Investment Management, Ltd. and Investors Real Property Fund

Headnote

Multilateral Instrument 11 – 102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – amend a previously granted Decision – previous Decision had a restriction on Fund`s ability to use a fund facts like document – previous Decision amended to permit Fund to use a fund facts like document in accordance with NI 81-101 and containing any additional disclosures as might be requested or accepted by The Manitoba Securities Commission.

Prospectus receipt to evidence NI 81-101 relief to permit additional disclosures in the fund facts document.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

July 5, 2013

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

AND

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

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD.
("IGIM") AND
INVESTORS REAL PROPERTY FUND
(the "Fund") (collectively, the "Filers")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("Decision Makers") have received an application from the Filers for a decision under the securities legislation of the Jurisdictions ("Legislation") to grant relief from Paragraphs L.4 and L.5. of the decision under the securities legislation of Manitoba and Ontario dated May 26, 2009 (the "2009 Decision"), as amended by a decision dated May 22, 2012 (the "2012 Decision"), by deleting Paragraphs L.4. and L.5. of the 2009 Decision in their entirety and replace same with the following:

> "The Fund shall file a prospectus and fund facts in accordance with NI 81-101 and containing any additional disclosure described herein or any alternate disclosure as may be requested or accepted by The Manitoba Securities Commission as principal regulator of the Fund."
>
> (the "Relief Sought").

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

(a) The Manitoba Securities Commission (the "MSC") is the principal regulator for this application;

(b) The Filers have provided notice that section 4.7(1) of Multi-Lateral Instrument 11-102 – *Passport System (*"MI 11-102") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Nunavut and the North West Territories; and

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

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* , National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* ("NI 81-101"), National Instrument 81-102 – *Mutual Funds* ("NI 81-102"), National Policy 11-203 – *Process for Exemptive Relief Applications in Multiple Jurisdictions* and MI 11-102, have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

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

1. The Fund is an open end real estate mutual fund originally organized by a Trust Agreement dated November 2, 1983, as amended. The Fund is continued under a Declaration of Trust dated December 31, 2010, as may be amended from time to time.

2. Units of the Fund are currently being offered to the public under a simplified prospectus and annual information form dated June 30, 2013, filed pursuant to NI 81-101 (the "Prospectus").

3. As for all Investors Group Mutual Funds, units of the Fund are distributed by Investors Group Financial Services Inc. and Investors Group Securities Inc. (collectively the "Dealers"), which are affiliates of IGIM.

4. To the Filers' knowledge, the Fund is the only open end real estate mutual fund, owning real property, offered in Canada.

5. The Fund's principal investment objective is stated in its prospectus to be:

   "… long term capital growth combined with a continued income stream through investments in real property located in Canada. To achieve this objective the Fund has assembled and intends to continue to assemble a diversified portfolio of income producing real properties with a better than average growth potential."

6. As of December 31, 2012, the Fund held a diversified real estate portfolio of 141 real properties located across Canada. Its real estate portfolio includes a variety of types of property including shopping centres and other retail facilities, commercial office buildings, mixed use commercial properties, single and multi-tenant industrial buildings, multi-tenant residential buildings, professional buildings and other types of properties. The net assets of the Fund as of December 31, 2012 (including real estate assets and liquid assets) were approximately $4,120,836,000.

7. On April 18, 2007, the Fund received the Mutual Reliance Review System Decision Document (the "2007 MRRS Decision"), which revoked and replaced a previous order granted by the MSC issued on June 13, 1997, and carried forward the relevant provisions of the former OSC Policy Statement 11.5 *Real Estate Mutual Funds – General Prospectus Guidelines* ("OSC 11.5") and the exemption from certain provisions of NI 81-102. The Fund also received an exemption from the application of Quebec Regulation Q-25, on the condition it complied with the 2007 MRRS Decision, as amended or replaced. The 2007 MRRS Decision required the Fund to use a long form of prospectus.

8. The Fund received the 2009 Decision, which revoked and replaced the 2007 MRRS Decision, permitting the Fund to file its Prospectus in accordance with NI81-101 (subject to any additional disclosures described in the 2009 Decision or any alternative disclosure as may be requested or accepted by the MSC as principal regulator of the Fund), and carried forward the relevant provisions of the 2007 MRRS Decision and the exemption from certain provisions of NI 81-102.

9. The Fund received the 2012 Decision, which amended Paragraph M. Investment Committee of the 2009 Decision, to permit registration of the Fund's Investment Committee members in the current registration categories set out in National Instrument 31-103 – *Registration Requirements and Exemptions and Ongoing Registrant Obligations*.

10. Paragraph L.4. of the 2009 Decision contained the condition that the Fund's Prospectus could not be consolidated with the prospectus of any other mutual fund to form a multiple simplified prospectus without the approval of the MSC.

11. The Filers were advised that Paragraph L.4. was included at that time due to regulatory concerns that consolidating could possibly limit the ability of an investor to understand the differences with respect to the Fund compared to other mutual funds.

12. Paragraph L.5. of the 2009 Decision contained the condition that the Fund shall not use any form of point of sale document that may, in the future, meet the prospectus delivery requirements for funds qualified under NI 81-101, and that the Fund continue to use a form of NI 81-101 simplified prospectus acceptable to the MSC to meet its delivery requirements under securities legislation.

13. The Filers were advised that Paragraph L.5. was included because the point of sale rules had not been finalized, and it was agreed that the Fund could bring a further application for relief once those rules were finalized.

14. The Filers have reviewed and considered the requirements of Form 81-101 F3 *Contents of Fund Facts Document* (the "Form Requirements") and submit that permitting the Fund to use a fund facts document and to consolidate it in accordance with the provisions of NI 81-101 would not be contrary to the public interest.

15. The Fund shall file a fund facts document in accordance with the Form Requirements and containing any alternate disclosure as may be requested or accepted by the MSC as principal regulator of the Fund.

16. The Filers intend to rely on the decision of the MSC dated September 16, 2011, which allows Investors Group Mutual Funds and their Dealers to send or deliver the most recently filed fund facts documents to satisfy delivery requirements under NI 81-101.

17. All other Investors Group Mutual Funds file fund facts documents in accordance with NI 81-101, other than to the extent IGIM has obtained exemptive relief from the Form Requirements. By allowing the Fund to file fund facts documents, it ensures consistency in the form of disclosure that investors receive for all Investors Group Mutual Funds and serves for easy comparison, while still including any alternate disclosure requested or accepted by the MSC.

18. Neither IGIM nor the Fund is in default under securities legislation in any province or territory of Canada.

Decision

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

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

"R.B. Bouchard"
Director – Corporate Finance
The Manitoba Securities Commission

2.1.6 Redwood Asset Management Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of a mutual fund – unitholders have received timely and adequate disclosure regarding the change of manager – change of manager is not detrimental to unitholders or the public interest.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(a), 5.7, 19.1.

July 19, 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
REDWOOD ASSET MANAGEMENT INC. AND
CALDWELL INVESTMENT MANAGEMENT LTD.
(collectively, the "Filers"), AND
REDWOOD GLOBAL HIGH DIVIDEND FUND

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for approval of a change of manager of the Redwood Global High Dividend Fund (the "**Fund**") from the Redwood Asset Management Ltd. ("**Redwood**") to Caldwell Investment Management Ltd. ("**Caldwell**") under Section 5.5(1)(a) of National Instrument 81-102 *Mutual Funds* (NI 81-102) (the "**Approval Sought**").

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

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

(b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, Prince Edward Island, New Brunswick and Newfoundland and Labrador.

Interpretation

Terms defined in National Instrument 41-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Redwood and the Fund

1. Redwood is the manager and trustee of the Fund.

2. Redwood is a corporation incorporated under the Ontario *Business Corporations Act* and is not in default of securities legislation in any jurisdiction of Canada.

3. The Fund is an open-end investment trust governed by an amended and restated declaration of trust dated as of December 10, 2008, as amended by amendment no. 1 thereto dated November 5, 2010, under the laws of the province of Ontario.

4. The Fund is a reporting issuer in all of the provinces of Canada and is not in default of securities legislation in any jurisdiction of Canada.

5. The units of the Fund currently are offered under a combined simplified prospectus and annual information form each dated November 22, 2012, as amended by amendment no. 1 thereto dated April 29, 2013, prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, and subject to NI 81-102.

Caldwell

6. Caldwell was incorporated under the laws of the Province of Ontario by articles of incorporation dated August 23, 1990. Caldwell's head office is located at 150 King Street West, Suite 1710, Toronto, Ontario M5H 1J9.

7. Caldwell is registered in British Columbia, Alberta, Saskatchewan and Ontario under the applicable legislations as a Portfolio Manager and Investment Fund Manager. Caldwell is not in default of securities legislation in any jurisdiction of Canada.

8. Caldwell is the manager of the Caldwell Mutual Funds, a family of mutual funds currently offered under a combined simplified prospectus and annual information form each dated June 29, 2012.

Change of Manager

9. Redwood and Caldwell entered into an agreement on April 17, 2013 pursuant to which Caldwell will become the trustee and manager of the Fund effective on or about July 19, 2013 (the "**Effective Date**"), subject to receipt of all necessary regulatory and unitholder approvals and the satisfaction of all other conditions precedent to the proposed transaction. On the Effective Date, the name of the Fund is expected to be changed by Caldwell to "Clearpoint Global Dividend Fund" and the independent review committee of the Fund is expected to be reconstituted such that the current members will cease to act as members and new members will be appointed effective on that date. Such new members will be the same individuals that currently comprise the independent review committee of the other mutual funds managed by Caldwell. No other material changes are contemplated in connection with the proposed change of manager.

10. Redwood will have no further responsibilities in respect of the Fund after the Effective Date. Redwood will continue to act as manager for certain other open-end funds that are not relevant to the transaction between Redwood and Caldwell.

11. A press release, amendments to the simplified prospectus and annual information form of the Fund and a material change report have been filed in connection with the announcement of the change of manager.

12. Redwood considers that the experience and integrity of each of the members of the Caldwell current management team is apparent by their education and years of experience in the investment industry.

13. Other than changing the name of the Fund to Clearpoint Global Dividend Fund and reconstituting the independent review committee as indicated in paragraph 9 hereabove, Caldwell intends to administer the Fund in substantially the same manner as Redwood. There is no intention to change the investment objectives, or fees and expenses of the Fund. All material agreements regarding the administration of the Fund will either be assigned to Caldwell by Redwood or Caldwell will enter into new agreements as required. In either case, the material terms of the material agreements of the Fund will remain the same. Caldwell intends to continue to retain the current portfolio advisor to manage the Fund's investment portfolio.

14. At a special meeting of unitholders of the Fund held on July 17, 2013, unitholders of the Fund approved the change of manager. A notice of meeting and a management information circular was mailed to unitholders of the Fund no later than June 26, 2013 and filed on SEDAR in accordance with applicable securities legislation. The resignation of Redwood as trustee and manager of the Fund will be effective on the Effective Date. On that date, Caldwell will assume the roles of trustee and manager of the Fund under the existing amended and restated declaration of trust and amended and restated management agreement, respectively, of the Fund.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision. The decision of the principal regulator under the legislation is that the Approval Sought is granted.

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

2.1.7 Argent Energy Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the requirements of paragraph 2.2(d) of National Instrument 44-101 Short Form Prospectus Distributions requiring an issuer to have current annual financial statements and a current Annual Information Form in order to be eligible to file a short form prospectus – issuer has filed a long form prospectus including operating statements and other disclosure in respect of a probable acquisition of oil and gas assets – having done so issuer was similar to issuers that rely on subsection 2.7(1) of NI 44-101

Applicable Legislative Provisions

National Instrument 44-101 Short Form Prospectus Distributions, s. 2.2(d).

Citation: Argent Energy Trust, Re, 2012 ABASC 425

October 3, 2012

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

AND

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

AND

IN THE MATTER OF
ARGENT ENERGY TRUST
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from Paragraph 2.2(d) of National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) (the **Exemption Sought**), which requires the Filer to have a current annual information form (**AIF**) and current annual financial statements in at least one jurisdiction in which the Filer is a reporting issuer, in order to qualify to file a short form prospectus under NI 44-101 (the **AIF and Annual Financial Statement Requirement**).

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

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 44-101 have the same meanings if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is an unincorporated limited purpose open-ended trust established pursuant to the trust indenture made as of January 31, 2012, as amended and restated as of May 9, 2012, under the laws of the Province of Alberta. The Filer qualifies as a "mutual fund trust" under the *Income Tax Act* (Canada).

2. The principal and head office of the Filer is located in Calgary, Alberta.

3. The financial year end of the Filer is December 31.

4. The Filer is a reporting issuer in each of the provinces of Canada and, to its knowledge, the Filer is not in default of securities legislation in any such jurisdiction in Canada in which it is a reporting issuer.

5. On August 1, 2012, the Filer filed and obtained a receipt for a final long form prospectus (the **IPO Prospectus**) in connection with its initial public offering of its units (the **IPO**).

6. The net proceeds of the IPO, plus an advance under credit facilities, were used by the Filer to acquire, through its subsidiaries, operated interests in certain oil and natural gas assets located in Texas (the **Denali Assets**). As at the date hereof, the Denali Assets comprise the principal undertaking of the Filer.

7. Annual and interim financial statements in respect of the Denali Assets, as required by Items 32.1, 32.2 and 32.3 of Form 41-101F1 *Information Required in a Prospectus* (**Form 41-101F1**), did not exist and the Filer was granted exemptive relief from such requirements in connection with the IPO.

8. The IPO Prospectus instead included the following information:

   (a) audited consolidated statement of financial position as at June 30, 2012 and the consolidated statements of comprehensive loss, changes in unit holders' equity and cash flows from the date of establishment on January 31, 2012 to June 30, 2012;

   (b) audited operating statements for the Denali Assets presenting gross revenues, royalties and production taxes and operating expenses for the years ending December 31, 2011, 2010 and 2009 and unaudited operating statements presenting gross revenues, royalties and production taxes and operating expenses for the three month periods ended March 31, 2012 and 2011 (the **Operating Statements**);

   (c) disclosure for the Denali Assets consisting of:

      (i) a description of the property or properties and the interest acquired by the issuer;

      (ii) disclosure of the annual oil and gas production volumes from the business;

      (iii) the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the vendor of the person who prepared the estimates; and

      (iv) the estimated oil and gas production volumes from the business for the first year reflected in the estimated disclosure in (iii) above;

   (d) disclosure of the decommissioning liabilities assumed as part of the acquisition of the Denali Assets, including the discounted and undiscounted amount of the liabilities and any necessary detail to support an understanding of the nature of the liability and the basis for measurement; and

   (e) National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* reporting in the form of Forms 51-101Fl (as at December 31, 2011), 51-101F2 and 51-101F3.

   (collectively, the **Alternative Financial Disclosure**).

9. Except for not meeting the AIF and Annual Financial Statement Requirement, the Filer would otherwise be qualified to file a prospectus in the form of a short form prospectus pursuant to NI 44-101.

10. The Filer may wish to file a short form prospectus or short form prospectuses under NI 44-101 prior to the point at which it will meet the AIF and Annual Financial Statement Requirement.

11. Under Subsection 2.7(1) of NI 44-101, an issuer that is not exempt from the requirement in the applicable CD rule to file annual financial statements but has not yet been required under the applicable CD rule to file same, and has filed and obtained a receipt for a final prospectus that included the issuer's or each predecessor entity's comparative annual financial statements for its most recently completed financial year or the financial year immediately preceding its most recently completed financial year (together with the auditor's report accompanying those financial statements), is exempt from the AIF and Annual Financial Statement Requirement (the **New Reporting Issuer Exemption**).

12. The Filer has not been exempted from the requirement of the applicable CD rule to file annual financial statements and the Filer has not yet been required under the applicable CD rule to file same.

13. The Filer does not meet the criteria of the New Reporting Issuer Exemption because the issuer's financial statements included in the IPO Prospectus were not of the issuer's most recently completed financial year or the financial year immediately preceding its most recently completed financial year, and furthermore the Operating Statements and other disclosure were not of a predecessor entity.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that:

(a) the Filer is not exempt from the requirement in the applicable continuous disclosure rule to file annual financial statements within the prescribed period after its financial year end;

(b) the Filer has not yet been required under the applicable continuous disclosure rule to file annual financial statements; and

(c) the Filer includes or incorporates by reference in a preliminary short form prospectus and short form prospectus if either is filed prior to the filing of annual financial statements of the Filer and an AIF under the applicable continuous disclosure rule (i) all of the financial statements and Alternative Financial Disclosure included in the IPO Prospectus, and (ii) the information that would otherwise have been required to have been included in a current AIF.

“Cheryl McGillivray”
Manager, Corporate Finance

2.1.8 Sonoro Energy Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption granted to issuer from the requirement to prepare its interim financial report in accordance with Canadian GAAP, but only to the extent necessary to enable the issuer to omit from the interim financial report disclosure of a subsequent event that is the subject of a confidential material change report that has been filed confidentially with the securities regulatory authority or regulator.

Applicable Legislative Provisions

National Instrument 52-107, s. 3.2(1)(a).

Citation: Sonoro Energy Ltd., Re, 2012 ABASC 220

May 30, 2012

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

AND

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

AND

IN THE MATTER OF
SONORO ENERGY LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempt from the requirement in subsection 3.2(1) of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) for its interim financial report for the three months ended 31 March 2012 (the **Interim Financials**) only to the extent necessary to enable the Filer to omit from the Interim Financials disclosure of a subsequent event that is the subject of a Form 51-102F3 *Material Change Report* filed on a confidential basis in accordance with paragraph 7.1(2)(a) of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**).

Furthermore, the Decision Makers have received a request from the Filer that this decision and the application be kept confidential and not be made public until the earlier of:

(a) the date on which the Filer publicly announces the Agreement (as herein defined); and

(b) 30 June 2012.

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

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

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia; and

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

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation subsisting under the laws of British Columbia.

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

3. The Filer is an oil exploration and development company, whose principal interests are located in Iraq.

4. The Filer is a reporting issuer in Alberta, British Columbia and Ontario.

5. The Filer is listed on the TSX Venture Exchange under the symbol "SNV".

6. The Filer's fiscal year end is 31 December.

7. The Filer is not in default under securities legislation in any jurisdiction.

8. The Filer contemplates filing the Interim Financials on 30 May 2012.

Confidential Material Change Report

9. On 8 May 2012 the Filer, through its wholly owned subsidiary Sonoro Iraq B.V. (**Sonoro Iraq**), entered into a Farmout Agreement (the **Agreement**) with Berkeley Petroleum Mesopotamia Limited (**Berkeley**) and Geopetrol Iraq Corp. The Filer has not publicly disclosed the Agreement and instead filed a Form 51-102F3 *Material Change Report* on 9 May 2012 (the **CMCR**) confidentially under paragraph 7.1(2)(a) of NI 51-102 on the basis that the disclosure of the Agreement would be unduly detrimental to the interests of the Filer.

10. Prior to 28 May 2012 the Filer expected that public disclosure of the Agreement would occur on or before 30 May 2012. On 28 May 2012 the Filer was informed by Berkeley that the Agreement would have to remain confidential beyond 30 May 2012. The Filer anticipates publicly disclosing the Agreement on or around 8 June 2012.

11. The instruction under section 1.11 of Form 51-102F1 *Management's Discussion & Analysis* (the **MD&A Exemption**) provides that an issuer does not have to disclose information in its management discussion and analysis (**MD&A**) if, under section 7.1 of National Instrument 51-102, the issuer has filed a Form 51-102F3 *Material Change Report* regarding the transaction on a confidential basis and the report remains confidential. The Filer intends to rely on the MD&A Exemption in omitting disclosure with respect to the Agreement from its MD&A for the three months ended 31 March 2012.

12. There is no equivalent relief in respect of the Interim Financials as that of the MD&A Exemption, but the Agreement constitutes a subsequent event that would need to be disclosed in the Interim Financials for the Filer to meet the requirements of paragraph 3.2(1)(a) of NI 52-107.

13. The Filer contemplates filing the Interim Financials on 30 May 2012 prepared in all respects in accordance with paragraph 3.2(1)(a) of NI 52-107 with the exception that the Filer would omit from the Interim Financials any disclosure with respect to the Agreement. Accordingly the Filer will not be in a position to comply with paragraph 3.2(1)(b)(ii) of NI 52-107. The Agreement would then be publicly disclosed as soon as possible, and in any event not later than 30 June 2012.

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:

(a) that the Filer is exempt from the requirement in subsection 3.2(1) of NI 52-107 in relation to the Interim Financials only to the extent necessary to enable the Filer to omit from the Interim Financials any disclosure with respect to the Agreement in the subsequent event note to the Interim Financials; and

(b) that the application and this order will remain confidential until the earlier of the date that the Filer publicly discloses the Agreement and 30 June 2012.

"Blaine Young"
Associate Director, Corporate Finance

2.2 Orders

2.2.1 Bunting & Waddington Inc. et al. – Rule 11 of the OSC Rules of Practice

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

AND

IN THE MATTER OF
BUNTING & WADDINGTON INC.,
ARVIND SANMUGAM and JULIE WINGET

ORDER
(Rule 11 of the Ontario Securities Commission Rules of Procedure (2012), 35 O.S.C.B. 10071)

WHEREAS on March 22, 2012, 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") (the "Notice of Hearing") in connection with a Statement of Allegations filed by Staff of the Commission ("Staff") on March 22, 2012, to consider whether it is in the public interest to make certain orders against Bunting & Waddington Inc. ("B&W"), Arvind Sanmugam ("Sanmugam"), Julie Winget ("Winget") and Jenifer Brekelmans ("Brekelmans") (collectively, the "Original Respondents");

AND WHEREAS on April 13, 2012, Staff filed Affidavits of Service evidencing service of the Notice of Hearing and the Statement of Allegations on the Original Respondents;

AND WHEREAS on April 16, 2012, a first appearance hearing was held before the Commission and Staff, Winget and counsel for Brekelmans appeared in person, Sanmugam attended via teleconference and no one appeared for B&W;

AND WHEREAS Staff advised that it was preparing the disclosure in this matter and anticipated that it would deliver the disclosure in two to three weeks;

AND WHEREAS on April 16, 2012, the Commission ordered that the hearing be adjourned to such date and time as set by the Office of the Secretary and agreed to by the parties, for a confidential pre-hearing conference;

AND WHEREAS on May 29, 2012, the Commission ordered that a confidential pre-hearing conference be held on June 19, 2012;

AND WHEREAS on June 19, 2012, a confidential pre-hearing conference was held before the Commission and Staff, Winget and counsel for Brekelmans appeared in person, Sanmugam attended via teleconference and no one appeared for B&W;

AND WHEREAS on June 19, 2012, the Commission ordered that the confidential pre-hearing conference be continued on October 18, 2012 to provide the panel with a status update and, if necessary, to hear any proper motions of Sanmugam;

AND WHEREAS on October 18, 2012, a continuation of the confidential pre-hearing conference was held before the Commission and Staff, Winget and counsel for Brekelmans appeared in person, B&W was represented by Winget, and Sanmugam attended via teleconference;

AND WHEREAS on October 18, 2012, the Commission ordered that the confidential pre-hearing conference be continued on January 18, 2013 to provide the panel with a status update;

AND WHEREAS on January 18, 2013, a continuation of the confidential pre-hearing conference was held before the Commission and Staff and counsel for Brekelmans appeared in person, Sanmugam attended via teleconference, and no one appeared for Winget or B&W;

AND WHEREAS on January 18, 2013, the Commission ordered that the confidential pre-hearing conference be continued on April 26, 2013 to provide the panel with a status update;

AND WHEREAS on April 26, 2013, a continuation of the confidential pre-hearing conference was held before the Commission and Staff appeared in person, Sanmugam attended via teleconference, and no one appeared for Brekelmans, Winget or B&W;

AND WHEREAS on April 26, 2013, the Commission ordered that the confidential pre-hearing conference be continued on July 10, 2013 to provide the panel with a status update;

AND WHEREAS Staff and Brekelmans entered into a settlement agreement which was approved by the Commission on May 9, 2013;

AND WHEREAS on June 3, 2013, the Commission issued an Amended Notice of Hearing pursuant to sections 127 and 127.1 of the Act (the "Amended Notice of Hearing") in connection with an Amended Statement of Allegations filed by Staff on May 30, 2013 (the "Amended Statement of Allegations") to consider whether it is in the public interest to make certain orders against B&W, Sanmugam and Winget (collectively, the "Remaining Respondents");

AND WHEREAS the Panel accepted the amended style of cause, removing Brekelmans as a respondent;

AND WHEREAS Staff applied to convert the portion of the proceeding respecting the request that the Commission make an order against Sanmugam, pursuant to subsection 127(10) of the Act, from an oral hearing to a written hearing, pursuant to Rule 11.5 of the Commission's

Rules of Procedure (2012) 35 O.S.C.B. 10071 (the "*Rules of Procedure*") (the "Application");

AND WHEREAS Staff filed the Affidavits of Service of Michelle Hammer, sworn June 11, 2013, and Laura Filice, sworn June 13, 2013, as evidence of service on Sanmugam, B&W and Winget of: the Amended Notice of Hearing, the Amended Statement of Allegations and Staff's written submissions respecting the Application;

AND WHEREAS on July 10, 2013, a hearing was held before the Commission at 10:00 a.m. in respect of the Amended Statement of Allegations and the Application and a confidential pre-hearing conference was held at 11:00 a.m. as previously scheduled;

AND WHEREAS on July 10, 2013, Staff appeared and made submissions and no one appeared or made submissions for B&W, Sanmugam or Winget;

AND WHEREAS Sanmugam did not file an objection to the Application;

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

IT IS ORDERED that:

1. Staff's application to convert the portion of this proceeding against Sanmugam from an oral hearing to a written hearing is granted, pursuant to Rule 11 of the *Rules of Procedure* (the "Written Hearing");

2. Staff's submissions in respect of the Written Hearing shall be served and filed no later than July 26, 2013;

3. Sanmugam's responding submissions in respect of the Written Hearing shall be served and filed by August 30, 2013; and

4. the confidential pre-hearing conference shall be adjourned to September 12, 2013 at 11:00 a.m. to provide the panel with a status update.

DATED at Toronto this 16th day of July, 2013.

"Edward P. Kerwin"

2.2.2 Aston Hill Senior Gold Producers Income Corp. – s. 1(6) of the OBCA

Headnote

Filer deemed to have ceased to be offering its securities to the public under the OBCA.

Applicable Legislative Provisions

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 1(6).

IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990, c. B.16, AS AMENDED
(the OBCA)

AND

IN THE MATTER OF
ASTON HILL SENIOR GOLD PRODUCERS INCOME CORP.
(the Applicant)

ORDER
(Subsection 1(6) of the OBCA)

UPON the application of the Applicant to the Ontario Securities Commission (the Commission) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is an "offering corporation" as defined in the OBCA, and has an authorized capital consisting of an unlimited number of class A shares and an unlimited number of common shares.

2. The head office of the Applicant is located at 77 King Street West, Suite 2110, Toronto, Ontario M5K 1G8.

3. Pursuant to a reorganization that was approved at a special meeting of shareholders on March 22, 2013, the Applicant merged into Aston Hill Global Resource & Infrastructure Fund on April 5, 2013.

4. As of the date of this decision, the Applicant no longer has any outstanding securities or security-holders.

5. The securities were de-listed from the TSX effective as of March 28, 2013 and are not listed on any other stock exchange or traded over the counter in Canada or elsewhere.

6. No securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

7. The Applicant submitted its Voluntary Surrender of Reporting Issuer Status to the British Columbia Securities Commission on May 17, 2013 and the Applicant ceased to be a reporting issuer in British Columbia on or before May 27, 2013. The Applicant was granted an order on July 10, 2013 that it is not a reporting issuer in Ontario pursuant to subclause 1(10)(a)(ii) of the Securities Act (Ontario) and is not a reporting issuer or the equivalent in any other jurisdiction in Canada in accordance with the simplified procedure set out in OSC Staff Notice 12-307 *Application for Decision that an Issuer is not a Reporting Issuer*.

8. The Applicant has no intention to make a public offering of securities. In the future, it may only offer securities to qualified investors on an exempt basis pursuant to available prospectus exemptions.

9. The Applicant is not a reporting issuer or equivalent in any jurisdiction of Canada.

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

IT IS HEREBY ORDERED by the Commission pursuant to subsection 1(6) of the OBCA that the Applicant be deemed to have ceased to be offering its securities to the public for the purpose of the OBCA.

DATED at Toronto on this 16th day of July, 2013.

"Judith Robertson"
Commissioner
Ontario Securities Commission

"James Carnwath"
Commissioner
Ontario Securities Commission

2.2.3 Heritage Education Funds Inc.

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

AND

IN THE MATTER OF
HERITAGE EDUCATION FUNDS INC.

ORDER

WHEREAS on August 13, 2012, the Ontario Securities Commission (the "Commission") ordered pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5 as amended (the "Act"), with the consent of Heritage Education Funds Inc. ("HEFI"), that the terms and conditions set out in Schedule "A" to the Commission order (the "Terms and Conditions") be imposed on HEFI (the "Temporary Order");

AND WHEREAS on August 21, 2012, the Commission extended the Temporary Order until November 23, 2012;

AND WHEREAS the Terms and Conditions required HEFI to retain a consultant (the "Consultant") to prepare and assist HEFI in implementing plans to strengthen their compliance systems, and to retain a monitor (the "Monitor") to review applications of New Clients and contact New Clients as defined and set out in the Terms and Conditions;

AND WHEREAS HEFI retained Deloitte & Touche LLP ("Deloitte") as its Monitor and its Consultant;

AND WHEREAS by Order dated October 10, 2012, the Commission clarified certain matters with respect to the Temporary Order;

AND WHEREAS by Order dated November 22, 2012, the Commission ordered that the Temporary Order be extended to December 21, 2012 and that the hearing be adjourned to December 20, 2012;

AND WHEREAS by Order dated December 20, 2012, the Commission amended certain of the Terms and Conditions and extended the Temporary Order to March 22, 2013;

AND WHEREAS on March 21, 2013, the Commission ordered that the Temporary Order be extended to April 19, 2013;

AND WHEREAS on April 8, 2013, HEFI filed a motion with the Commission to vary the terms of the Temporary Order by, among other matters, suspending the on-going monitoring by the Monitor of HEFI's compliance with the Terms and Conditions (the "Motion");

AND WHEREAS on April 18, 2013, the Commission heard oral submissions from the parties and

issued an Order which: (i) dismissed the Motion; (ii) extended the Temporary Order to May 31, 2013, or until such further order of the Commission; (iii) adjourned the hearing to May 27, 2013 at 11:00 a.m. for the purpose of providing the Commission with an update on the work completed by the Monitor and the Consultant; and (iv) provided that the Monitor, Staff and HEFI may seek further direction from the Commission, if necessary or desirable;

AND WHEREAS on May 23, 2013, the Commission issued an order on consent of the parties that: (i) the Temporary Order is extended to June 17, 2013; or until such further order of the Commission; (ii) the hearing is adjourned to June 14, 2013 at 10:00 a.m.; and (iii) the hearing date of May 27, 2013 is vacated;

AND WHEREAS on May 24, 2013, HEFI requested that a Manager in the Compliance and Registrant Regulation Branch of the Commission (the "OSC Manager") approve Compliance Support Services to replace Deloitte as Consultant and by letter dated June 12, 2013 the OSC Manager approved Compliance Support Services as Consultant subject to three conditions;

AND WHEREAS on June 14, 2013, the Commission ordered on consent of the parties that: (i) the Temporary Order be extended to July 22, 2013; and (ii) the hearing be adjourned to July 18, 2013 at 10:00 a.m.;

AND WHEREAS the parties have agreed that: (i) the Temporary Order be extended to September 9, 2013; (ii) the hearing be adjourned to September 6, 2013 at 10:00 a.m.; and (iii) the hearing date of July 18, 2013 at 10:00 a.m. be vacated;

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

IT IS HEREBY ORDERED pursuant to section 127 of the Act that:

1. the Temporary Order is extended to September 9, 2013, or until such further order of the Commission;

2. the hearing is adjourned to September 6, 2013 at 10:00 a.m.; and

3. the hearing date of July 18, 2013 at 10:00 a.m. is vacated.

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

"James E. A. Turner"

2.2.4 Onix International Inc. and Tyrone Constantine Phipps – ss. 37, 127(1)

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

AND

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

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
ONIX INTERNATIONAL INC. AND
TYRONE CONSTANTINE PHIPPS

ORDER
(Sections 37 and 127(1))

WHEREAS by Notice of Hearing dated March 8, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 3, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Onix International Inc. ("Onix International") and Tyrone Constantine Phipps ("Phipps") (collectively the "Respondents"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff") dated March 7, 2013;

AND WHEREAS the hearing on the merits in this matter was scheduled to commence on September 5, 2013 at 10:00 a.m. and to continue on September 6, 9, 11, 12 and 13, 2013 (the "Merits Hearing Dates");

AND WHEREAS the Respondents entered into a settlement agreement with Staff dated June 21, 2013 (the "Settlement Agreement") in which the Respondents agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated March 8, 2013, subject to the approval of the Commission;

AND WHEREAS on June 24, 2013, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from the Respondents and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Onix International cease permanently from the date of this Order;

(c) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Phipps cease for 10 years from the date of the approval of this Order;

(d) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Phipps is prohibited for 10 years from the date of this Order;

(e) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Phipps for 10 years from the date of this Order;

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

(g) pursuant to clauses 8, 8.2, and 8.4 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of this Order from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

(h) pursuant to clause 8.5 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of this Order from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

(i) pursuant to clause 10 of subsection 127(1) of the Act, the Respondents shall disgorge to the Commission, on a joint and several basis, the amount of $232,000 obtained as a result of their non-compliance with Ontario securities law. The amount of $232,000 disgorged shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to clause 9 of subsection 127(1) of the Act, Phipps shall pay an administrative penalty in the amount of $25,000 for his failure to comply with Ontario securities law. The administrative penalty in the amount of $25,000 shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to subsection 37(1) of the Act, Phipps is prohibited for 10 years, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(l) Notwithstanding the provisions of this Order, once Phipps has fully satisfied the terms of sub-paragraphs (i) and (j) above, Phipps shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer;

IT IS FURTHER ORDERED THAT the Merits Hearing Dates are vacated.

DATED at Toronto this 16th day of July, 2013.

“Vern Krishna”

2.2.5 Ernst & Young LLP (Audits of Zungui Haixi Corporation) – ss. 127, 127.1

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

AND

IN THE MATTER OF
ERNST & YOUNG LLP
(AUDITS OF ZUNGUI HAIXI CORPORATION)

ORDER
(Sections 127 and 127.1)

WHEREAS on June 24, 2013 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") with respect to Ernst & Young LLP (the "Respondent");

AND WHEREAS the Notice of Hearing stated that an initial hearing before the Commission would be held on July 15, 2013;

AND WHEREAS the Commission convened a hearing on July 15, 2013 and heard submissions from counsel for Staff and counsel for the Respondent;

AND WHEREAS Staff requested that the matter be adjourned to a Pre-Hearing Conference and the Respondent consented to this request;

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

IT IS HEREBY ORDERED that this matter is adjourned to a confidential Pre-Hearing Conference to be held on Monday, September 30, 2013 at 11:00 a.m.

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

"Mary G. Condon"

2.2.6 Rezwealth Financial Services Inc. et al. – s. 127

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

AND

IN THE MATTER OF
REZWEALTH FINANCIAL SERVICES INC.,
PAMELA RAMOUTAR, JUSTIN RAMOUTAR,
TIFFIN FINANCIAL CORPORATION, DANIEL TIFFIN,
2150129 ONTARIO INC., SYLVAN BLACKETT,
1778445 ONTARIO INC. and WILLOUGHBY SMITH

ORDER
(Section 127 of the Securities Act)

WHEREAS on January 24, 2011, 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**"), in relation to a Statement of Allegations dated January 24, 2011 filed by Staff of the Commission ("**Staff**") with respect to Rezwealth Financial Services Inc. ("**Rezwealth**"), Pamela Ramoutar ("**Ms. Ramoutar**"), Justin Ramoutar ("**Mr. Ramoutar**"), Tiffin Financial Corporation ("**Tiffin Financial**"), Daniel Tiffin ("**Tiffin**"), 2150129 Ontario Inc. ("**215 Inc.**"), Sylvan Blackett ("**Blackett**"), 1778445 Ontario Inc. and Willoughby Smith;

AND WHEREAS on December 22, 2009, the Commission issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the Act (the "**Original Temporary Order**");

AND WHEREAS the Original Temporary Order was extended from time to time and amended on January 26, 2011 (the "**Amended Temporary Order**") to provide:

1. that all trading in any securities by Rezwealth, Tiffin Financial and 215 Inc. shall cease;

2. that all trading in any securities by Ms. Ramoutar, Mr. Ramoutar, Tiffin and Blackett shall cease;

3. that the exemptions contained in Ontario securities law do not apply to Rezwealth, Tiffin Financial, 215 Inc. or their agents or employees;

4. that the exemptions contained in Ontario securities law do not apply to Ms. Ramoutar, Mr. Ramoutar, Tiffin and Blackett; and

5. that the Amended Temporary Order shall not affect the right of any respondent to apply to the Commission to clarify, amend, or revoke the Amended Temporary Order upon five days written notice to Staff;

AND WHEREAS on March 16, 2011, the Commission extended the Amended Temporary Order, pursuant to subsections 127(7) and 127(8) of the Act, to the conclusion of the hearing on the merits;

AND WHEREAS on January 24, 2012, Staff filed an Amended Statement of Allegations and the Commission issued an Amended Notice of Hearing;

AND WHEREAS a hearing on the merits in this matter was held before the Commission on October 31, 2012, November 1, 2, 5, 7, 8 and 9, 2012, December 3, 5, 6, 10, 11,12, 13 and 17, 2012 and March 1, 2013;

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

IT IS ORDERED that:

1. Staff shall serve and file written submissions on sanctions and costs by 4:00 p.m. on August 8, 2013;

2. The Respondents shall serve and file responding written submissions on sanctions and costs by 4:00 p.m. on August 29, 2013;

3. Staff shall serve and file reply written submissions on sanctions and costs, if any, by 4:00 p.m. on September 9, 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 September 17, 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; and

6. pursuant to subsections 127(1), (7) and (8) of the Act, the Amended Temporary Order is extended until the conclusion of the sanctions and costs hearing.

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

"Edward P. Kerwin"

2.2.7 GrowthWorks Enterprises Ltd. (formerly SEAMARK Asset Management Ltd.) – s. 147

Headnote

Relief for non-SRO mutual fund dealer from the requirement that every registered dealer, other than an exempt market dealer as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, participate in a compensation fund or contingency trust fund that has been approved by the Commission and satisfies certain other requirements set out in that subsection – Relief required in connection with the transfer of management contracts – Relief on conditions similar to that which was granted to GrowthWorks Capital Ltd. in an order and decision dated June 21, 2013 in accordance with terms set out in Ontario Securities Commission Staff Notice 33-379 Termination of the Ontario Contingency Trust Fund.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.
Regulation made under the Securities Act, R.R.O. 1990, Reg, 1015, as am., Schedule 1, . 110(1).

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

REGULATION 1015
R.R.O. 1990, AS AMENDED, MADE UNDER THE ACT (the "Regulation")

AND

GROWTHWORKS ENTERPRISES LTD.
(formerly SEAMARK Asset Management Ltd.)
(the "Filer")

ORDER
(Section 147 of the Act)

Background

1. Subsection 110(1) of the Regulation requires every registered dealer, other than an exempt market dealer as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations* (**NI 31-103**), to participate in a compensation fund or contingency trust fund that has been approved by the Commission and satisfies certain other requirements set out in that subsection (the **compensation fund participation requirement**).

2. The Ontario Contingency Trust Fund (the **OCTF** or **Plan**) is one of three compensation funds or contingency trust funds that have been approved by the Commission for the purposes of subsection 110(1) of the Regulation.

3. The terms of the OCTF are set out in a form of trust agreement (the **Trust Agreement**) that has been entered into by each participant in the Plan with the trustee (the **Trustee**) of the Plan.

4. Previously, registered dealers (**OCTF Dealers**) that were not members of the Investment Industry Regulatory Organization of Canada (**IIROC**) or the Mutual Fund Dealers Association of Canada (**MFDA**) participated in the OCTF, and as such did not participate in the corresponding approved compensation fund for members of these self-regulatory organizations.

5. OCTF Dealers comprise scholarship plan dealers and mutual fund dealers that obtained an exemption from the requirement in Ontario securities law to be a member of the MFDA.

6. As indicated in Ontario Securities Commission Staff Notice 33-739 *Termination of the Ontario Contingency Trust Fund* (the **Notice**), the continued operation of the Plan was not financially sustainable. The Trustee proposed that the OCTF be wound up in accordance with advice and direction from the court and the Commission advised the Trustee that it does not object to the Trustee pursuing such a wind-up.

Application

The Filer has applied to the Commission for an order, under section 147 of the Act, exempting the Filer from the compensation fund participation requirement on the terms set out in this Order.

Representations of the Filer

The Filer has represented to the Commission that:

a. The Filer is a subsidiary of Matrix Asset Management Inc. (**Matrix**), a reporting issuer. The common shares of Matrix are listed on The Toronto Stock Exchange. GrowthWorks Capital Ltd. (GWC) is also a subsidiary of Matrix.

b. The head office of the Filer is in Vancouver, British Columbia.

c. GWC's working capital is currently below the level required under Part 12 of NI 31-103.

d. Currently, GWC and its affiliates and related companies have two fund management operating divisions – (i) general investment fund management, which may include mutual funds, specialty funds, flow through investments and exempt market products (the **Matrix Funds Management Division**) and (ii) venture capital management, which manages a number of regionally focused venture capital funds across Canada (the **Venture Capital Management Division**).

e. Under management contracts (the **Management Contracts** and each a **Management Contract**) the Matrix Funds Management Division provides management services to the Matrix group of investment funds (the **Matrix Funds**).

f. It is proposed that GWC transfer the Management Contracts to the Filer (the **Transfers**) to ensure that the investment fund manager for the Matrix Funds has sufficient working capital. It is anticipated that the Transfers will occur on or about July 16, 2013.

g. GWC was previously exempt from the requirement to be a member of the MFDA in connection with its mutual fund dealer registration. GWC was granted relief from the compensation fund participation requirement in a decision dated June 21, 2013 (the **GWC Order and Decision**). The requested relief is on conditions similar to the GWC Order and Decision.

h. In order to complete the Transfers, the Filer is required to register as a mutual fund dealer. The Filer has applied for registration as a mutual fund dealer. The Filer was granted an exemption from section 9.2 of NI 31-103 which provides that a mutual fund dealer must not act as a mutual fund dealer unless it is a member of the MFDA and, accordingly, it is not required by Ontario securities law to become a member of the MFDA.

i. Upon the Transfers, the Filer's only clients will be the Matrix Funds and the Filer will not hold for those clients any funds, securities or other property (**Client Assets**).

j. So long as the Filer relies upon the exemption from the compensation fund participation requirement set out in this Order, the Filer will not hold any Client Assets.

k. Before any person or company that is not a client of the Filer on the Effective Date (defined below) becomes a client of the Filer, the Filer will provide to that person or company prominent written notice of the following:

The Filer has obtained an exemption from the requirement in Ontario securities law to participate in an approved compensation fund or contingency trust fund. These funds provide for certain compensation to eligible clients of a participating dealer who suffer a financial loss as a result of the dealer becoming insolvent and not being able to return assets which it was holding on behalf of clients.

It is a condition of the exemption that the Filer not hold any client assets.

l. On the Effective Date, the Filer will have provided to any person or company that is an existing client of the Filer prominent written notice of the following:

The Filer has obtained an exemption from the requirement in Ontario securities law to participate in an approved compensation fund or contingency trust fund. These funds provide for certain compensation to eligible clients of a participating dealer who suffer a financial loss as a result of the dealer becoming insolvent and not being able to return assets which it was holding on behalf of clients.

It is a condition of the exemption that the Filer not hold any client assets.

m. The Filer will not rely upon the passport provisions of Canadian securities legislation to passport this Ontario Order into any other jurisdiction of Canada without the prior written consent of that other jurisdiction.

Commission Order

In the opinion of the Commission it is not prejudicial to the public interest to make this Order.

It is ordered by the Commission pursuant to section 147 of the Act that:

(i) beginning on the Effective Date (as defined below), the Filer is exempt from subsection 110(1) of the Regulation, but only so long as, in the case of that Filer:

A. the Filer is not required by Ontario securities law to be a member of the MFDA;

B. the Filer does not hold any Client Assets; and

C. the Filer provides the disclosure to its clients referred to in paragraph (k) above and has provided the disclosure to its clients referred to in the paragraph (l) above; and

(ii) this Order shall be effective on the day indicated below (the **Effective Date**).

DATED at Toronto, Ontario this 15th day of July, 2013.

"Edwin P. Kerwin"
Commissioner
Ontario Securities Commission

"James D. Carnwath"
Commissioner
Ontario Securities Commission

2.2.8 Alpha Exchange Inc. – s. 144

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

AND

IN THE MATTER OF
ALPHA EXCHANGE INC.

REVOCATION ORDER
(Section 144 of the Act)

WHEREAS by order dated December 8, 2011, the Commission recognized each of Alpha Trading Systems Limited Partnership and Alpha Exchange Inc. (Alpha Exchange) as an exchange pursuant to section 21 of the Act, effective the later of: (a) February 1, 2012; or (b) the date the operations of Alpha ATS Limited Partnership have been legally transferred to Alpha Exchange, and subject to the terms and conditions;

AND WHEREAS by order dated April 24, 2012, the Commission designated Alpha Exchange as a designated exchange for the purposes of section 101.2 of the Act (the Designated Exchange Order);

AND WHEREAS pursuant to section 101.2(1) of the Act, an issuer bid that is made in the normal course through the facilities of a designated exchange is exempt from the formal bid requirements if the bid is made in accordance with the bylaws, rules, regulations and policies of that exchange;

AND WHEREAS on November 1, 2012 the Commission approved the withdrawal of the listing rules and related forms for the Alpha Main and Alpha Venture Plus listing markets on the Alpha Exchange;

AND WHEREAS Alpha Exchange no longer has bylaws, rules, regulations and policies regulating normal course issuer bids;

AND WHEREAS an application has been made pursuant to section 144 for an order revoking the Designated Exchange Order;

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

IT IS ORDERED that, pursuant to section 144 of the Act, the Designated Exchange Order is revoked.

DATED this 16th day of July 2013.

"Judith N. Robertson"
Commissioner

"James D. Carnwath"
Commissioner

2.2.9 Global Consulting and Financial Services et al. – ss. 37, 127(1)

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA and
LORNE BANKS

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
LORNE BANKS

ORDER
(Sections 37 and 127(1))

WHEREAS by Notice of Hearing dated March 27, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 17, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Global Consulting and Financial Services, Global Capital Group, Crown Capital Management, Michael Chomica, Jan Chomica and Lorne Banks ("Banks"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated March 27, 2013;

AND WHEREAS Banks entered into a settlement agreement with Staff dated July 4, 2013 (the "Settlement Agreement") in which Banks agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated March 27, 2013, subject to the approval of the Commission;

WHEREAS on July 10, 2013, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from Banks and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Banks cease permanently from the date of the approval of the Settlement Agreement;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Banks is prohibited permanently from the date of the approval of the Settlement Agreement;

(d) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Banks permanently from the date of the approval of the Settlement Agreement;

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

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

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

(h) pursuant to clause 10 of subsection 127(1) of the Act, Banks shall disgorge to the Commission the amount of $25,000 obtained as a result of his non-compliance with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(i) pursuant to clause 9 of subsection 127(1) of the Act, Banks shall pay an administrative penalty in the amount of $50,000 for his failure to comply with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(j) pursuant to subsection 37(1) of the Act, Banks is prohibited permanently, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(k) Notwithstanding the provisions of this Order, once Banks has fully satisfied the terms of sub-paragraphs (h) and (i) above, Banks shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer.

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

"Vern Krishna"

2.2.10 AMTE Services Inc. et al. – s. 127(8)

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

AND

IN THE MATTER OF
AMTE SERVICES INC.,
OSLER ENERGY CORPORATION,
RANJIT GREWAL, PHILLIP COLBERT
AND EDWARD OZGA

TEMPORARY ORDER
(Subsection 127(8))

WHEREAS on October 15, 2012, pursuant to subsections 127(1) and 127(5) of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"), the Ontario Securities Commission (the "Commission") issued the following order (the "Temporary Order") against AMTE Services Inc. ("AMTE"), Osler Energy Corporation ("Osler"), Ranjit Grewal ("Grewal"), Phillip Colbert ("Colbert") and Edward Ozga ("Ozga") (collectively, the "Respondents"):

(i) pursuant to clause 2 of subsection 127(1) of the Act, all trading by and in the securities of AMTE shall cease; all trading by and in the securities of Osler shall cease; all trading by Grewal shall cease; all trading by Colbert shall cease; and all trading by Ozga shall cease.

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

AND WHEREAS on October 15, 2012, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on October 16, 2012, the Commission issued a Notice of Hearing to consider the extension of the Temporary Order, to be held on October 25, 2012 at 2:00 p.m.;

AND WHEREAS on October 25, 2012, the Commission ordered that the Temporary Order be extended until January 29, 2013 and that the hearing be adjourned until January 28, 2013 at 10:00 a.m.;

AND WHEREAS on January 29, 2013, the Commission ordered that the Temporary Order be extended until March 12, 2013 and that the hearing be adjourned until March 11, 2013 at 10:00 a.m.;

AND WHEREAS on March 11, 2013, the Commission ordered that the Temporary Order be extended until May 28, 2013 or until further order of the Commission and that the hearing be adjourned until May 27, 2013 at 10:00 a.m.;

AND WHEREAS on March 27, 2013, a hearing was held before the Commission and counsel for Staff attended to request an extension of the Temporary Order and no one appeared on behalf of the Respondents;

AND WHEREAS Staff filed the affidavit of Peaches Barnaby sworn May 24, 2013 outlining service of the Commission order dated March 11, 2013 on the Respondents;

AND WHEREAS quasi-criminal proceedings have been commenced in the Ontario Court of Justice pursuant to section 122(1)(c) of the Act against Grewal, Ozga and Colbert (the "Section 122 Proceedings");

AND WHEREAS a judicial pre-trial in connection with the Section 122 Proceedings was scheduled for June 27, 2013;

AND WHEREAS Colbert consented to the extension of the Temporary Order;

AND WHEREAS the Commission ordered that the Temporary Order be extended until July 22, 2013 or until further order of the Commission and the hearing to consider a further extension of the Temporary Order be adjourned until July 19, 2013 at 11:00 a.m.;

AND WHEREAS on July 19, 2013, a hearing was held before the Commission and counsel for Staff attended to request an extension of the Temporary Order and no one appeared on behalf of the Respondents;

AND WHEREAS Staff filed the affidavit of Tia Faerber sworn July 18, 2013 outlining service of the Commission's order dated May 27, 2013 on the Respondents;

AND WHEREAS a further judicial pre-trial in connection with the Section 122 Proceedings is scheduled for September 16, 2013;

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 Temporary Order is extended until September 25, 2013 or until further order of the Commission and the hearing to consider a further extension of the Temporary Order is adjourned until September 23, 2013 at 10:00 a.m. or to such other date or time as provided by the Office of the Secretary and agreed to by the parties.

DATED at Toronto this 19th day of July, 2013.

"James E. A. Turner"

2.2.11 Children's Education Funds Inc.

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

AND

IN THE MATTER OF
CHILDREN'S EDUCATION FUNDS INC.

ORDER

WHEREAS on September 14, 2012, the Ontario Securities Commission (the "Commission") ordered pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5 as amended (the "Act") and with the consent of Children's Education Funds Inc. ("CEFI") that the terms and conditions (the "Terms and Conditions") set out in Schedule "A" to the Commission order dated September 14, 2012 be imposed on CEFI (the "Temporary Order");

AND WHEREAS on September 14, 2012, the Commission ordered that the Temporary Order shall take force immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission and ordered that the matter be brought back before the Commission on September 26, 2012 at 10:00 a.m.;

AND WHEREAS on September 20, 2012, the Commission issued a Notice of Hearing pursuant to section 127 in respect of a hearing to be held on September 26, 2012 at 10:00 a.m. to consider whether, in the opinion of the Commission, it was in the public interest, pursuant to subsection 127(7) and (8) of the Act to extend the Temporary Order;

AND WHEREAS on September 26, 2012, Staff of the Commission ("Staff") filed with the Commission the Affidavit of Maria Carelli sworn September 18, 2012 in support of the extension of the Temporary Order;

AND WHEREAS on September 26, 2012, the Commission extended the Temporary Order against CEFI until December 7, 2012 and ordered that the matter be brought back before the Commission on December 6, 2012 at 10:00 a.m.;

AND WHEREAS the Terms and Conditions of the Temporary Order required CEFI to retain a consultant (the "Consultant") to prepare and assist CEFI in implementing plans to strengthen their compliance systems and to retain a monitor (the "Monitor") to review all applications of new clients and contact new clients as set out in the Terms and Conditions;

AND WHEREAS CEFI retained Compliance Support Services Inc. ("Compliance Support") as both its Monitor and its Consultant;

AND WHEREAS Compliance Support filed its Consultant's plan on October 2, 2012 and filed an addendum to Consultant's plan with the OSC Manager on November 12, 2012;

AND WHEREAS on December 6, 2012, Staff filed an Affidavit of Lina Creta sworn December 3, 2012 setting out the monitoring and consulting work completed to date by Compliance Support;

AND WHEREAS on December 6, 2012, the Commission approved a revised monitoring regime which consisted of a review of a random sample of 50% of applications from new clients of CEFI with an income less than $50,000 and a random sample of 10% of applications from new clients with an income greater than $50,000 for the purpose of ensuring adequate KYC Information in order to determine suitability of the investment and should the Monitor not be satisfied with the KYC Information for this purpose, to contact the new client;

AND WHEREAS on December 6, 2012, the Temporary Order was extended to March 1, 2013 and adjourned the hearing to February 28, 2013 at 10:00 a.m. for the purpose of providing the Commission with an update on the work completed by the Monitor and the Consultant and to consider whether any changes are required to the Terms and Conditions;

AND WHEREAS on February 28, 2013, the Commission varied the terms of the monitoring set out in paragraph 5 of the Terms and Conditions, extended the Temporary Order to May 13, 2013 and adjourned the hearing to May 10, 2013;

AND WHEREAS on May 10, 2013, Staff filed an Affidavit of Lina Creta sworn May 9, 2013 attaching the Progress report and Monitor reports filed with Staff since February 23, 2013 and attached a letter to the OSC Manager dated May 7, 2013 stating that the Consultant recommends a suspension of the Monitor;

AND WHEREAS on May 10, 2013, the Commission ordered: (i) as at the close of business on May 10, 2013, the role and activities of the Monitor shall be suspended; (ii) the Temporary Order extended to July 22, 2013; and (iii) the hearing adjourned to July 19, 2013 at 10:00 a.m.;

AND WHEREAS on July 19, 2013, Staff filed an affidavit of Lina Creta sworn July 17, 2013 which attached the fifth progress report dated July 15, 2013;

AND WHEREAS the parties agree that paragraphs 4, 5, 6, 7, 8, 9, 10, 11and 12 of the Terms and Conditions can be deleted and paragraph 12 replaced as set out below;

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

IT IS HEREBY ORDERED pursuant to section 127 of the Act that:

1. paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the Terms and Conditions are deleted;

2. paragraph 12 of the Terms and Conditions is deleted and replaced with "12.1 CEFI is prohibited from opening any new branch locations unless the Consultant has provided a letter in writing to the OSC Manager, in respect of each proposed new branch location, confirming that the new branch location has a suitable branch manager and that CEFI has sufficient compliance resources to oversee the proposed new branch location.";

3. the Temporary Order is extended to August, 28, 2013; and

4. the hearing in this matter is adjourned to August 26, 2013 at 10:00 a.m.

DATED at Toronto this 19th day of July, 2013.

"James E. A. Turner"

2.2.12 Northern Sun Exploration Company Inc. – s. 144

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

AND

IN THE MATTER OF
NORTHERN SUN EXPLORATION COMPANY INC.

ORDER
(Section 144)

WHEREAS the securities of Northern Sun Exploration Company Inc. ("**Northern Sun**") are subject to a cease trade order made by the Director dated March 23, 2009 (the "**Cease Trade Order**") pursuant to subsections 127(1) and 127(5) of the Act directing that all trading in the securities of Northern Sun cease until the order is revoked by the Director;

AND WHEREAS the Cease Trade Order was made on the basis that Northern Sun was in default of certain filing requirements under Ontario securities law as described in the Cease Trade Order and outlined below;

AND WHEREAS Northern Sun has applied to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 144 of the Act to revoke the Cease Trade Order;

AND UPON Northern Sun having represented to the Commission that:

1. Northern Sun was incorporated under the *Company Act* (British Columbia) on September 5, 1975 under the name Landmark Resources Ltd. On October 6, 1995, Northern Sun changed its name to Landmark Environmental Inc., on June 12, 1997, Northern Sun changed its name to International Landmark Environmental Inc., on January 15, 2003, Northern Sun changed its name to Shabute Ventures Inc. and on June 29, 2004, it changed its name to Northern Sun Exploration Company Inc. The location of Northern Sun's head office is at Suite 1910-1055 West Hastings Street, Vancouver, BC, V6E 2E9. Northern Sun has been inactive from March 2009 until present.

2. Northern Sun is a reporting issuer in British Columbia, Alberta and Ontario (the "*Reporting Jurisdictions*"), and is not a reporting issuer in any other jurisdiction.

3. Northern Sun's authorized capital structure consists of an unlimited number of common shares without nominal or par value. As of the date hereof, there are 111, 203,812 common shares issued and outstanding. Northern sun also

previously issued a convertible debenture with a corporation in which two (2) insiders of Northern Sun are major shareholders. The convertible debenture is a debt instrument and may not be converted into common shares until Northern Sun has been released from insolvency protection and the Cease Trade Order has been revoked. Other than the common shares and the convertible debenture, Northern Sun has no other securities issued and outstanding.

4. The common shares of Northern Sun are listed on the NEX board of the TSX Venture Exchange under the symbol "NSE.H" but are currently suspended from trading. Northern Sun is only listed on the NEX board at this time and is not listed on any other exchange, marketplace or facility.

5. The Commission made the decision ordering that trading cease in respect of the securities of Northern Sun because Northern Sun failed to file its audited annual financial statements and MD&A for the year ended October 31, 2008. A temporary cease trade order was made by the Director on March 11, 2009, which order was then subsequently extended on March 23, 2009 until further order of the Director.

6. Northern Sun is also subject to a cease trade order issued by the British Columbia Securities Commission on March 11, 2009 for the Company's failure to file its audited annual financial statements and MD&A for the year ended October 31, 2008. Northern Sun has applied for a revocation of the cease trade order issued by the British Columbia Securities Commission concurrent with its application to the Commission.

7. Northern Sun is also subject to a cease trade order issued by the Alberta Securities Commission on March 6, 2009 for the Company's failure to file its audited annual financial statements and MD&A for the year ended October 31, 2008. Northern Sun has applied for a revocation of the cease trade order issued by the Alberta Securities Commission concurrent with its application to the Commission.

8. Since the issuance of the Cease Trade Order, Northern Sun has filed, among other things, the following continuous disclosure documents with the Reporting Jurisdictions:

   a. the comparative annual audited financial statements, MD&A and NI 52-109 certificates of Northern Sun for the year ended October 31, 2011;

   b. the comparative interim unaudited financial statements, MD&A and certificates of Northern Sun for the quarters ended January 31, April 30, and July 31, 2012;

   c. the comparative annual audited financial statements, MD&A and NI 52-109 certificates of Northern Sun for the year ended October 31, 2012; and

   d. the comparative interim unaudited financial statements, MD&A and certificates of Northern Sun for the quarters ended January 31, and April 30, 2013.

9. Northern Sun has not filed:

   a. comparative interim unaudited financial statements, corresponding MD&A, and NI 52-109 certificates for the periods ending: January 31, 2009, April 30, 2009, July 31, 2009, January 31, 2010, April 30, 2010, July 31, 2010, January 31, 2011, April 30, 2011, and July 31, 2011; and

   b. comparative annual audited financial statements, corresponding MD&A, and NI 52-109 certificates for the periods ending October 31, 2008, October 31, 2009, and October 31, 2010.

   (the "**Outstanding Filings**")

10. Northern Sun has paid all outstanding filing fees, participation fees and late filing fees required to be paid to the Ontario Securities Commission and has filed all forms associated with such payments.

11. Except for the failure to file the Outstanding Filings, Northern Sun (i) is up-to-date with all of its other continuous disclosure obligations; (ii) is not in default of any of its obligations under the Cease Trade Order; and (iii) is not in default of any requirements under the Act or the rules and regulations made pursuant thereto other than as set out in representation 12, below.

12. In July 2009 Northern Sun issued a convertible debenture (the "**Debenture**") to Trend Energy Services Ltd. (formerly 1474866 Alberta Ltd.) in the principal amount of $250,000 (the "**Principal Sum**") in contravention of the Cease Trade Order. The Debenture was subsequently assigned to Big Earl Resources Ltd. (the "**Holder**"). The Debenture further provided that the Holder could convert all or a portion of the Principal Sum (in increments of $50,000) into fully paid nonassessable common shares of Northern Sun at a conversion price of $0.05 per share. No amount owing under the Debenture has been converted to common shares of Northern Sun. Northern Sun and the Holder have cancelled the Debenture. Once the Cease Trade Order has

been revoked, Northern Sun and the Holder will enter into a loan agreement for the outstanding Principal Sum plus interest.

13. Since the issuance of the Cease Trade Order, there have been no material changes in the business, operations or affairs of Northern Sun.

14. Since the issuance of the Cease Trade Order, no technical report has been required to be filed by Northern Sun pursuant to National Instrument 43-101 *Standards of Disclosure for Mineral Projects*.

15. Northern Sun's current directors and executive officers are: Christopher R. Cooper, President, Chief Executive Officer and Director; Daryn Gordon, Chief Financial Officer; John Land, Director and Chief Operating Officer; and Les Stach, Director. Christopher R. Cooper, John Land, and Les Stach were elected at the last Annual General Meeting of the Company, held on April 25, 2008. Daryn Gordon was appointed as the Chief Financial Officer of the Company on September 30, 2012.

16. Northern Sun is not considering nor is it involved in any discussions related to, a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

17. Northern Sun has given the executive director of its principal regulator, the British Columbia Securities Commission ("**Executive Director**"), a written undertaking that it will not complete any transaction that would result in a reverse take-over without providing advance written notice of such transaction to the Executive Director.

18. Northern Sun undertakes, in accordance with Section 3.1(5) of NP 12-202, to hold an annual meeting within three months of the date on which the Cease Trade Order is revoked.

19. Northern Sun has an up-to-date SEDAR profile and SEDI issuer profile supplement.

20. Upon the issuance of this revocation order, Northern Sun will issue a news release announcing the revocation. Northern Sun will concurrently file the news release and material change report on SEDAR.

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

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

IT IS ORDERED pursuant to section 144 of the Act that the Cease Trade Order is revoked.

Dated: July 19, 2013

"Naizam Kanji"
Deputy Director, Corporate Finance

2.2.13 Invesco Canada Ltd. et al. – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to sub-advisers not ordinarily resident in Ontario in respect of advice regarding trades in commodity futures contracts and commodity futures options, subject to certain terms and conditions – Renewal of previous relief – Relief mirrors exemption available in section 7.3 of OSC Rule 35-502 Non-Resident Advisers made under the Securities Act (Ontario).

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 Non-Resident Advisers

July 19, 2013

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, CHAPTER C.20, AS AMENDED
(the CFA)

AND

IN THE MATTER OF
INVESCO CANADA LTD.,
INVESCO ADVISERS, INC.,
AND INVESCO ASSET MANAGEMENT LIMITED

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) of Invesco Canada Ltd. (the **Principal Adviser)**, and Invesco Advisers, Inc. and Invesco Asset Management Limited (each a **Sub-Adviser** and collectively, the **Sub-Advisers**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 80 of the CFA, that the Sub-Advisers and any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the respective Sub-Adviser in respect of the Advisory Services (as defined below) be exempt, for a period of five years, from the adviser registration requirements of paragraph 22(1)(b) of the CFA when acting as an adviser for the Principal Adviser in respect of the Funds (as defined below) in respect of commodity futures contracts and commodity futures options (collectively, the **Contracts**) traded on commodity futures exchanges and cleared through clearing corporations;

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

AND UPON the Sub-Advisers and the Principal Adviser having represented to the Commission that:

1. The Principal Adviser is a corporation established under the laws of the Province of Ontario and its principal business office is in Toronto, Ontario.

2. The Principal Adviser is currently registered (i) with each of the securities commissions of the provinces of Canada as an adviser in the category of portfolio manager and a dealer in the category of exempt market dealer, (ii) as an investment fund manager in the provinces of Ontario, Quebec and Newfoundland and (iii) with the Commission as an adviser in the category of commodity trading manager.

3. The Principal Adviser is registered as an investment adviser and as a transfer agent with the U.S. Securities and Exchange Commission and as an investment adviser with the Central Bank of Ireland (formerly with the Irish Financial Services Regulatory Authority).

4. The Principal Adviser is an indirect wholly-owned subsidiary of Invesco Ltd., a publicly-traded company listed on the New York Stock Exchange. As such, the Principal Adviser leverages the global expertise of investment professionals at its affiliates worldwide.

5. The Principal Adviser is the investment adviser of (i) investment funds, the securities of which are qualified by prospectus for distribution to the public in Ontario and the other provinces and territories of Canada (the **Investment Funds**), (ii) pooled funds, the securities of which are sold on a private placement basis in all the provinces of Canada

to accredited investors pursuant to prospectus and registration exemptions contained in National Instrument 45-106 *Prospectus and Registration Exemptions* (the **Pooled Funds**), (iii) managed accounts of institutional clients who have entered into investment management agreements with the Principal Adviser (the **Managed Accounts**) and (iv) other Investment Funds, Pooled Funds and Managed Accounts that may be established in the future for which the Principal Adviser engages the respective Sub-Adviser to provide advisory services (the **Future Funds**) (each of the Investment Funds, Pooled Funds, Managed Accounts and Future Funds are referred to individually as a **Fund** and collectively as the **Funds**).

6. The Funds may, as part of their investment program, invest in Contracts.

7. The Principal Adviser offers the portfolio management services of the respective Sub-Adviser to the respective Funds that choose to have exposure to capital markets and Contracts in which the respective Sub-Adviser has experience and expertise.

8. The Investment Funds and Pooled Funds are or will be formed in Ontario where the Principal Adviser is registered as an adviser in the category of commodity trading manager.

9. Invesco Advisers, Inc. is a corporation formed under the laws of the State of Delaware, United States of America. The head office of Invesco Advisers, Inc. is located in Atlanta, Georgia in the United States of America.

10. Invesco Advisers, Inc. is currently registered as an investment adviser with the U.S. Securities and Exchange Commission and is also registered as a commodity trading adviser and commodity pool operator with the U.S. Commodity Futures Trading Commission (the **CFTC**).

11. Invesco Asset Management Limited is a corporation formed under the laws of England and Wales. The head office of Invesco Asset Management Limited is located in London, England.

12. Invesco Asset Management Limited is an authorised person for the purposes of the *Financial Services & Markets Act 2000* and is authorised and regulated to carry on investment business in the United Kingdom by virtue of its authorisation by the Financial Services Authority. Invesco Asset Management Limited is also currently registered as an investment adviser with the U.S. Securities and Exchange Commission and is exempted from registration as a commodity trading adviser or commodity pool operator with the CFTC.

13. Each respective Sub-Adviser is appropriately registered or licensed, or is entitled to rely on appropriate exemptions from such registrations or licences, to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction.

14. The Sub-Advisers are not residents of any province or territory of Canada.

15. Each Sub-Adviser is an affiliate of the Principal Adviser; for this purpose, an "affiliate" means any entity that is controlled by Invesco Ltd., or other ultimate parent company of the Principal Adviser, as the case may be, and "control" and any derivation thereof, means the possession, directly or indirectly, of the power to direct or significantly influence the management and policies/business or affairs of an entity whether through ownership of voting securities or otherwise.

16. The Principal Adviser may, pursuant to a written investment management agreement with each Fund, act as an adviser to the Fund in respect of:

    (a) securities, as defined in the *Securities Act* (Ontario) (the **Act**); and

    (b) Contracts, as defined in the CFA

    by exercising discretionary authority to purchase or sell securities and Contracts on behalf of the Funds in respect of the investment portfolio of the Funds.

17. In connection with the Principal Adviser acting as an adviser to the Funds in respect of the purchase or sale of securities and Contracts, the Principal Adviser, in reliance on a previously-issued order, pursuant to a written agreement made between the Principal Adviser and each Sub-Adviser, has retained the respective Sub-Adviser to act as an adviser to the Funds (the **Advisory Services**) by exercising discretionary authority on behalf of the Principal Adviser, in respect of all or a portion of all of the assets of the respective investment portfolio of the Funds, including discretionary authority to buy or sell Contracts for the Funds, provided that:

    (a) in each case, the Contracts must be cleared through an acceptable clearing corporation; and

(b) such investments are consistent with the investment objectives and strategies of the Funds.

18. The written agreement between the Principal Adviser and each Sub-Adviser sets out the obligations and duties of each party in connection with the Advisory Services and permits the Principal Adviser to exercise the degree of supervision and control it is required to exercise over each Sub-Adviser in respect of the Advisory Services.

19. The Principal Adviser delivers to the Funds all applicable reports and statements required under applicable securities and derivatives legislation.

20. If there is any direct contact between a Fund and a Sub-Adviser in connection with the Advisory Services, a representative of the Principal Adviser, duly registered in accordance with Ontario commodity futures law, will be present at all times either in person or by telephone.

21. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative, a partner or an officer of a registered adviser and is acting on behalf of a registered adviser.

22. By providing the Advisory Services, each Sub-Adviser and any individuals acting on behalf of the respective Sub-Adviser in respect of the Advisory Services will be engaging in, or holding themselves out as engaging in, the business of advising others in respect of the Contracts and, in the absence of being granted the requested relief, would be required to register as an adviser, or a representative of an adviser, as the case may be, under the CFA.

23. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA that is similar to the exemption from the adviser registration requirement in section 25(3) of the Act which is provided under section 7.3 of OSC Rule 35-502 *Non-Resident Advisers* (**OSC Rule 35-502**).

24. The relationship among the Principal Adviser, the Sub-Advisers and the Funds satisfies the requirements of section 7.3 of OSC Rule 35-502.

25. As would be required under section 7.3 of OSC Rule 35-502:

(a) the duties and obligations of each respective Sub-Adviser are set out in a written agreement with the Principal Adviser;

(b) the Principal Adviser has contractually agreed with the Funds to be responsible for any loss that arises out of the failure of the respective Sub-Adviser:

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and the Funds; or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**); and

(c) the Principal Adviser cannot be relieved by the Funds from its responsibility for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations.

26. The Sub-Advisers will only provide the Advisory Services as long as the Principal Adviser is, and remains, registered under the CFA as an adviser in the category of commodity trading manager.

27. The prospectus or similar offering document for each Investment Fund or Pooled Fund or other Investment Funds or Pooled Funds that may be established in the future and for which the Principal Adviser engages the respective Sub-Adviser to provide the Advisory Services will include the following disclosure:

(a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations; and

(b) a statement that there may be difficulty in enforcing any legal rights against the respective Sub-Adviser (or any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the respective Sub-Adviser in respect of the Advisory Services) because the respective Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

28. Prior to purchasing any securities of one or more of the Funds directly from the Principal Adviser or entering into an investment management agreement with the Principal Adviser for a Managed Account, all investors who are Ontario residents will receive written disclosure that includes:

    (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations; and

    (b) a statement that there may be difficulty in enforcing any legal rights against the respective Sub-Adviser (or any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the respective Sub-Adviser in respect of the Advisory Services) because the respective Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested;

IT IS ORDERED, pursuant to section 80 of the CFA, that the Sub-Advisers and any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the respective Sub-Adviser in respect of the Advisory Services are exempt from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of the Advisory Services provided to the Principal Adviser, for a period of five years, provided that at the relevant time that such activities are engaged in:

(a) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;

(b) each respective Sub-Adviser and any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the respective Sub-Adviser in respect of the Advisory Services are appropriately registered or licensed, or are entitled to rely on appropriate exemptions from such registrations or licences, to provide advice for the Funds pursuant to the applicable legislation of their principal jurisdiction;

(c) the obligations and duties of each respective Sub-Adviser are set out in a written agreement with the Principal Adviser;

(d) the Principal Adviser has contractually agreed with the respective Fund to be responsible for any loss that arises out of any failure of the respective Sub-Adviser to meet the Assumed Obligations;

(e) the Principal Adviser cannot be relieved by a Fund or its securityholders from its responsibility for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations;

(f) the prospectus or similar offering document for each Investment Fund or Pooled Fund or other Investment Funds or Pooled Funds that may be established in the future and for which the Principal Adviser engages the respective Sub-Adviser to provide the Advisory Services will include the following disclosure:

    (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations; and

    (ii) a statement that there may be difficulty in enforcing any legal rights against the respective Sub-Adviser (or any individuals engaging in, or holding themselves out as engaging in, the business of advising others on behalf of the respective Sub-Adviser in respect of the Advisory Services) because the respective Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada; and

(g) prior to purchasing any securities of one or more of the Funds directly from the Principal Adviser or entering into an investment management agreement with the Principal Adviser for a Managed Account or other Managed Accounts that may be established in the future, all investors who are Ontario residents will receive written disclosure that includes:

    (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the respective Sub-Adviser to meet the Assumed Obligations; and

    (ii) a statement that there may be difficulty in enforcing any legal rights against the respective Sub-Adviser (or any individuals engaging in, or holding themselves out as engaging in, the business of advising others on behalf of the respective Sub-Adviser in respect of the Advisory Services) because

the respective Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

July 19, 2013

“Deborah Leckman”

“Sarah B. Kavanagh”

2.2.14 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 was satisfied that Sino-Forest was provided with notice of the May 13, 2013 pre-hearing conference;

AND WHEREAS on May 13, 2013 the Commission ordered that the pre-hearing conference in this matter continue on July 19, 2013;

AND WHEREAS on July 19, 2013 the pre-hearing conference continued 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 was satisfied that Sino-Forest was provided with notice of the July 19, 2013 pre-hearing conference;

IT IS HEREBY ORDERED that the pre-hearing conference in this matter be continued on August 13, 2013, at 3:30 p.m., or such other date and time as agreed to by the parties and set by the Office of the Secretary, at which time dates for the hearing on the merits will be set.

DATED at Toronto this 19th day of July, 2013.

"Mary G. Condon"

2.2.15 Dow Chemical Company – s. 1(10)(a)(ii)

Headnote

Subsection 1(10) of the Securities Act (Ontario) – Application by reporting issuer for a decision that it is not a reporting issuer in Ontario – Issuer became a reporting issuer in Ontario when its shares commenced trading on the Toronto Stock Exchange on may 16, 1974 – Issuer de-listed from Toronto Stock Exchange on December 21, 1997- Residents of Canada beneficially own, directly or indirectly, only approximately 2.58% of issuer's outstanding common shares worldwide – residents of Canada comprise, directly or indirectly, only approximately 2.65% of the total number of holders of issuer's outstanding common shares worldwide – No securities of the Issuer trade on any market or exchange in Canada – Issuer is a paper filer and is subject to the reporting requirements under the Securities Exchange Act of 1934 of the United States – Issuer qualifies as a "SEC foreign issuer" under National Instrument 71-102 Continuous Disclosure and other Exemptions Relating to Foreign Issuers- Issuer's securities are listed for trading on the New York Stock Exchange, London Stock Exchange, Tokyo Stock Exchange, SIX Swiss Stock Exchange – Issuer has not taken steps to create a market for the ordinary shares and, in particular, never offered securities to the public in Ontario or in any other jurisdiction in Canada by way of a prospectus offering – Issuer has undertaken that it will concurrently deliver to its Canadian securityholders all disclosure material it is required under U.S. securities laws to deliver to its securityholders in the U.S. – Issuer has issued a press release announcing that it has submitted an application to cease to be a reporting issuer in Ontario – Requested relief granted.

Applicable Legislative Provisions

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

July 19, 2013

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

AND

IN THE MATTER OF
THE DOW CHEMICAL COMPANY
(THE "FILER")

ORDER
(SUBCLAUSE 1(10)(a)(ii))

UPON the Director having received an application from the Filer for an order under subclause 1(10)(a)(ii) of the Act that the Filer is not a reporting issuer in Ontario;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the "Commission");

AND UPON the Filer representing to the Commission as follows:

1. The Filer was incorporated in 1947 under Delaware law and is the successor to a Michigan corporation, of the same name, organized in 1897.

2. The Filer's head office is located at 2030 Dow Center, Midland, Michigan 48674.

3. The Filer owns a diversified portfolio of specialty chemical, advanced materials, agrosciences and plastics businesses that deliver a broad range of technology-based products and solutions to customers in approximately 160 countries.

4. The authorized share capital of the Filer consists of 1,500,000,000 shares of Common Stock (the "Common Shares") and 250,000,000 shares of Series A Stock (the "Series A Shares", together with the Common Shares, the "Shares") of which 1,172,354,054 Common Shares and 4,000,000 Series A Shares were moved and outstanding as at December 31, 2010 and 1,208,129,785 Common Shares and 4,000,000 Series A Shares were issued and outstanding as at March 18, 2013.

5. The Common Shares are listed for trading and quoted on the New York Stock Exchange in the United States (the "NYSE") which is the principal market for the Common Shares. The Common Shares are also listed on the London Stock Exchange, the Tokyo Stock Exchange and the SIX Swiss Stock Exchange.

6. There are only three registered and beneficial owners of the Series A Shares and each of them is resident in a jurisdiction other than Canada. The Series A Shares are not listed or quoted on any marketplace in Canada.

7. The Filer had 122 outstanding series of debt securities having an aggregate principal amount of US$ 21,530,915,000 as of December 31, 2010. The Filer has outstanding 202 series of debt securities having an aggregate principal amount of US$ 17,486,106,848 as of March 31, 2013. All such debt securities were distributed in a foreign jurisdiction, principally the United States, and are the subject of book entries with a clearing corporation.

8. The Filer became a reporting issuer in Ontario by listing its Common Shares for trading on the Toronto Stock Exchange effective May 16, 1974. The Filer voluntarily delisted the Common Shares from the Toronto Stock Exchange effective December 31, 1997.

9. The Filer is not a reporting issuer in any other jurisdiction of Canada.

10. None of the Filer's securities are listed, traded or quoted on a marketplace in Canada as defined in National Instrument 21-101 *Marketplace Operation* and the Filer does not intend to have its securities listed, traded or quoted on such a marketplace in Canada.

11. The Filer is subject to the reporting requirements under the Securities Exchange Act of 1934 of the United States and it is not in default of any such reporting requirements.

12. The Filer is not in default of any reporting or other requirements of the NYSE, the London Stock Exchange, the Tokyo Stock Exchange, or the SIX Swiss Stock Exchange.

13. The Filer qualifies as a "SEC foreign issuer" under National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("NI 71-102") and has relied on exemptions from Canadian continuous disclosure requirements afforded to SEC foreign issuers under Part 4 of NI 71-102.

14. The Filer qualifies as a "foreign issuer (SEDAR)" under National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* ("NI 13-101"), it has never elected to file a notice of election to become an electronic filer in the manner provided in subsection 2.1(2) of NI 13-101 and it has therefore made its continuous disclosure filings as paper-based filings with the Commission.

15. For the years ended December 31, 2009 to December 31, 2012, the Filer made paper-based filings with the Commission of its annual reports on Form 10-K which included: audited consolidated financial statements of the Filer for the year then ended and the previous year, reports of the Filer's independent registered public accounting firm, management's discussion and analysis for the same years and certifications of certain principal officers pursuant to sections 302 and 906 of the *Sarbanes – Oxley Act of 2002* and section 8.1 of National Instrument 52-109 Certification of Disclosure in *Issuers' Annual and Interim Filings* ("NI 52-109");

16. The Filer is not in default of any of its obligations under the securities legislation of Ontario other than:

    (a) for the period beginning January 1, 2009 and ending December 31, 2012, the filing of certain continuous disclosure reports, including press releases, material change reports, management information circulars and quarterly reports, including interim management's discussion and analysis and related NI 52-109 certifications; and

    (b) for the period from May 16, 1974 to December 31, 2008, the filing of certain continuous disclosure reports, including press releases, material change reports, management information circulars, annual reports and quarterly reports, including annual and interim management's discussion and analysis and related NI 52-109 certifications.

17. All continuous disclosure documents that have been filed by the Filer in accordance with U.S. securities laws can be obtained on EDGAR and the Filer's website.

18. Continuous disclosure documents that the Filer has been required to deliver to the holders of its securities in accordance with U.S. securities laws have been delivered to the holders of all of its securities that are entitled to receive them, including those resident in Canada.

19. The Filer determined the number of Canadian residents that beneficially owned its Shares, and the number of Shares beneficially owned by Canadian residents, directly or indirectly, as at December 31, 2010 by reviewing the shareholder register maintained by its registrar and transfer agent and by acquiring a geographic analysis report dated January 6, 2011 (the "Initial Broadridge Equity Report") from Broadridge Investor Communication Services ("Broadridge") respecting the number of Common Shares beneficially owned, and the number and percentage of beneficial owners of Common Shares, in each of the provinces and territories of Canada, the United States and all other foreign jurisdictions as at December 31, 2010.

20. The Filer determined the number of Canadian residents that beneficially owned its debt securities, and the principal amount of its debt securities beneficially owned by Canadian residents, directly or indirectly, as at March 1, 2011, by acquiring a geographic analysis report dated March 4, 2011 (the "Broadridge Debt Report") from Broadridge respecting the principal amount of the six largest series of its debt securities beneficially owned, and the number and percentage of the beneficial owners of the six largest series of its debt securities, in each of the provinces and territories in Canada, the United States and all other foreign jurisdictions as at March 1, 2011.

21. Based and relying on the Initial Broadridge Equity Report and the Broadridge Debt Report, residents of Canada did not, directly or indirectly, beneficially own more than 2% of the number or principal amount of each class or series of outstanding Shares or debt securities of the Filer, respectively, worldwide as at December 31, 2010 and March 1, 2011, respectively.

22. Based and relying on the Initial Broadridge Equity Report and the Broadridge Debt Report, residents of Canada did not, directly or indirectly, comprise more than 2% of the total number of security holders of the Filer worldwide as at December 31, 2010.

23. The Filer determined the number of Canadian residents that beneficially owned its Shares, and the number of Shares beneficially owned by Canadian residents, directly or indirectly, as at March 18, 2013 by reviewing the Shareholder registers maintained by its registrar and transfer agent and by acquiring a geographic analysis report dated April 17, 2013 (the "Second Broadridge Equity Report") from Broadridge respecting the number of Common Shares beneficially owned, and the number and percentage of beneficial owners of Common Shares, in each of the provinces and territories of Canada, the United States and all other foreign jurisdictions as at March 18, 2013.

24. The Filer determined the number of Canadian residents that are the registered holders of its Common Shares, and the number of Common Shares held by such registered holders, as at March 18, 2013 by acquiring a geographic breakdown snapshot from Computershare (the "Computershare Report") respecting the number of Common Shares held by registered owners of Common Shares, and the number and percentage of registered owners of Common Shares, in each of the provinces and territories of Canada, the United States and all other foreign jurisdictions as at March 18, 2013.

25. The Filer determined the number of Canadian residents that beneficially owned its debt securities, and the principal amount of its debt securities beneficially owned by Canadian residents, directly or indirectly, as at March 31, 2013, by requesting a geographic analysis report from Broadridge respecting the principal amount of each of the six largest series of its debt securities beneficially owned, and the number and percentage of the beneficial owners of the six largest series of its debt securities, in each of the provinces and territories of Canada, the United States and all other foreign jurisdictions as at March 18, 2013 and by being advised by Broadridge that it has no relevant data due to a lack of Canadian accounts.

26. Residents of Canada do not, directly or indirectly, beneficially own more than 2% of the outstanding Series A Shares or the principal amount of any outstanding series of debt securities of the Filer worldwide.

27. Residents of Canada do not, directly or indirectly, comprise more than 2% of the total number of holders of the outstanding Series A Shares or the principal amount of any outstanding series of debt securities of the Filer worldwide.

28. Based and relying on the Second Broadridge Equity Report, residents of Canada beneficially own, directly or indirectly, approximately 2.58% of the outstanding Common Shares worldwide as at March 18, 2013.

29. Based and relying on the Second Broadridge Equity Report, residents of Canada comprise, directly or indirectly, approximately 2.65% of the total number of holders of the outstanding Common Shares worldwide as at March 18, 2013.

30. Based and relying on the Computershare Report, residents of Canada are the registered holders of not more than 2% of the outstanding Common Shares worldwide as at March 18, 2013.

31. Based and relying on the Computershare Report, residents of Canada do not comprise more than 2% of the total number of registered holders of outstanding Common Shares worldwide as at March 18, 2013.

32. The Filer has not taken steps to create a market for its securities and, in particular, it has never offered securities to the public in Ontario or in any other jurisdiction in Canada by way of a prospectus offering.

33. There has been no offering of Common Shares in Canada since the Filer voluntarily delisted the Common Shares from the TSX effective December 31, 1997 and the Filer is not aware of any debt offering that has been undertaken in Canada.

34. The Filer provided advance notice to Canadian resident securityholders in a press release dated July 5, 2013 that it had applied for a decision that it is not a reporting issuer in Ontario and that, if a decision was made, the Filer would no longer be a reporting issuer in any jurisdiction in Canada.

35. The Filer has undertaken that it will concurrently deliver to its Canadian securityholders all disclosure material that the Filer is required under U.S. securities laws to deliver to its securityholders in the United States.

36. The Filer will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Commission granting the relief requested.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest;

IT IS HEREBY ORDERED pursuant to subclause 1(10)(a)(ii) of the Act that, for purposes of Ontario securities law, the Filer is not a reporting issuer.

"Sarah B. Kavanagh"
Ontario Securities Commission

"Deborah Leckman"
Ontario Securities Commission

2.2.16 Pro-Financial Asset Management Inc. – ss. 127(1), (2) and (8)

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.

ORDER
(Subsections 127(1), (2) and (8))

WHEREAS on May 17, 2013, the Ontario Securities Commission (the "Commission") issued a temporary order (the "Temporary Order") with respect to Pro-Financial Asset Management Inc. ("PFAM") pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering that:

1. Pursuant to paragraph 1 of subsection 127(1) of the Act, the registration of PFAM as a dealer in the category of exempt market dealer is suspended and 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:

   (a) 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

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

2. Pursuant to subsection 127(6) of the Act, 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 it appeared 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 principal protected notes ("PPNs");

AND WHEREAS on May 28, 2013, the Commission ordered: (i) the Temporary Order extended to June 27, 2013; (ii) the hearing to consider whether to further extend the terms of the Temporary Order and/or to make any further order as to PFAM's registration, would proceed on June 26, 2013 at 10:00 a.m.;

AND WHEREAS on June 26, 2013, the Commission ordered that: the Temporary Order be extended to July 15, 2013; the affidavit of Michael Denyszyn sworn May 24, 2013 not be marked as an exhibit until the next appearance in the absence of a Commission order to the contrary; and the hearing to consider this matter will proceed on July 12, 2012;

AND WHEREAS on July 11, 2013, the Commission ordered that; (i) the Temporary Order be extended to July 22, 2013; (ii) the hearing be adjourned to July 18, 2013 at 11:00 a.m.; and (iii) the hearing date of July 12, 2013 at 10:00 a.m. be vacated;

AND WHEREAS on July 18, 2013, PFAM brought a motion (the "PFAM Motion") that the hearing be held in camera and that the affidavits of Michael Denyszyn sworn May 24 or June 24, 2013 and the affidavit of Michael Ho sworn July 17, 2013 (collectively the "Staff Affidavits") either not be admitted as evidence or else be treated as confidential documents and the parties agreed that the motion should be heard in camera;

AND WHEREAS on July 18, 2013, PFAM's counsel filed supporting documents (the "PFAM Materials") in support of the PFAM Motion and counsel for PFAM and Staff made oral submissions;

AND WHEREAS the parties have agreed that to the terms of this Order set out below;

AND WHEREAS PFAM has agreed to provide an update to Staff on the PPN reconciliation process by July 31, 2013;

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

IT IS HEREBY ORDERED that:

1. the Temporary Order is extended to August 26, 2013;

2. Staff is granted leave to file written submissions on PFAM's motion by Wednesday, July 24, 2014 and PFAM is granted leave to file reply submissions by Friday, July 26, 2013;

3. the Staff Affidavits, the transcript of the PFAM Motion, the PFAM Materials, any written submissions filed by Staff or reply submissions filed by PFAM and other documents presented in the course of the PFAM Motion shall be treated as confidential documents until further direction or order of the Commission; and

4. the hearing to consider whether to: (i) further extend or vary the terms of the Temporary Order; (ii) make any further order as to PFAM's registration; (iii) review PFAM's plan for a sale of PFAM's assets; and/or (iv) consider whether to order PFAM to deliver the final PPN reconciliation report to Staff, will proceed on August 23, 2013 at 10:00 a.m.

DATED at Toronto this 22nd day of July, 2013.

"James E. A. Turner"

2.2.17 David M. O'Brien – s. 9(10 of the SPPA and Rules 5.2(1), 8.1 of the OSC Rules of Procedure

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

AND

IN THE MATTER OF
DAVID M. O'BRIEN

ORDER
(Subsection 9(1) of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended and Rule 8.1 and subrule 5.2(1) of the Commission's Rules of Procedure (2012), 35O.S.C.B. 10071)

WHEREAS on December 8, 2010, the Secretary of the Ontario Securities Commission (the "Commission") issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission on December 20, 2010 at 10:30 a.m., or as soon thereafter as the hearing could be held;

AND WHEREAS on December 9, 2010, the Respondent David O'Brien ("O'Brien") was served with the Notice of Hearing and Statement of Allegations dated December 7, 2010;

AND WHEREAS the Notice of Hearing provided for the Commission to consider, among other things, whether, in the opinion of the Commission, it is in the public interest, pursuant to section 127 of the Act, to issue temporary orders against O'Brien, as follows:

(a) O'Brien shall cease trading in any securities for a prescribed period or until the conclusion of the hearing on the merits in this matter;

(b) O'Brien is prohibited from acquiring securities for a prescribed period or until the conclusion of the hearing on the merits in this matter; and

(c) Any exemptions contained in Ontario securities law do not apply to O'Brien for a prescribed period or until the conclusion of the hearing on the merits in this matter;

AND WHEREAS on December 20, 2010, Staff of the Commission ("Staff") and O'Brien appeared before the Commission and made submissions and O'Brien advised the Commission that he was opposed to Staff's request that temporary orders be issued against him and that he wished to cross-examine Lori Toledano, a member of Staff, on her affidavit;

AND WHEREAS on December 20, 2010, the hearing with respect to the issuance of the temporary orders was adjourned until December 23, 2010 at 12:30 p.m.;

AND WHEREAS on December 23, 2010, a hearing with respect to the issuance of the temporary orders was held and the panel of the Commission considered the affidavit of Toledano, the cross-examination of Toledano and the submissions made by Staff and O'Brien;

AND WHEREAS on December 23, 2010, the Commission issued a temporary cease trade order pursuant to section 127 of the Act ordering that:

(a) O'Brien shall cease trading in securities;

(b) O'Brien is prohibited from acquiring securities; and

(c) Any exemptions contained in Ontario securities law do not apply to O'Brien (the "Temporary Cease Trade Order");

AND WHEREAS on December 23, 2010, the Commission ordered that the Temporary Cease Trade Order shall expire on April 1, 2011;

AND WHEREAS on December 23, 2010, the Commission ordered that Staff and O'Brien shall consult with the Office of the Secretary and schedule a confidential pre-hearing conference for this matter;

AND WHEREAS a confidential pre-hearing conference was scheduled for February 24, 2011;

AND WHEREAS at the confidential pre-hearing conference on February 24, 2011, Staff and O'Brien appeared and made submissions regarding the disclosure made by Staff, and Staff requested an extension of the Temporary Cease Trade Order;

AND WHEREAS on February 24, 2011, the Commission ordered that:

a) a hearing to extend the Temporary Cease Trade Order shall take place on March 30, 2011 at 11:30 a.m.;

b) a motion regarding disclosure shall take place on April 21, 2011 at 10:00 a.m., and in accordance with rule 3.2 of the Commission *Rules of Procedure* (2010), 33 OSCB 8017 (the "*Rules of Procedure*"), O'Brien shall serve and file a motion record, including any affidavits to be relied upon, by April 11, 2011 at 4:30 p.m.; and

c) a further confidential pre-hearing conference shall take place on May 30, 2011 at 10:00 a.m.;

AND WHEREAS on March 30, 2011, a hearing with respect to the extension of the Temporary Cease Trade Order was held, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

AND WHEREAS on March 30, 2011, the Commission ordered that:

a) the Temporary Cease Trade Order shall be extended to April 26, 2011; and

b) a further hearing to extend the Temporary Cease Trade Order shall take place on April 21, 2011 at 10:00 a.m.;

AND WHEREAS on April 21, 2011, a hearing with respect to the extension of the Temporary Cease Trade Order was held, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

AND WHEREAS on April 21, 2011, the Commission ordered that:

a) the Temporary Cease Trade Order shall be extended until the conclusion of the hearing of the merits of this matter; and

b) O'Brien may, if he wishes to do so, apply to the Commission for an order revoking or varying this Order pursuant to section 144 of the Act;

AND WHEREAS also on April 21, 2011, O'Brien brought a motion regarding disclosure, wherein he sought an order from the Commission requiring Staff to provide him with all additional disclosure materials without requiring him to execute a further undertaking, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

AND WHEREAS on April 21, 2011, the Commission ordered that Staff shall provide further disclosure materials to O'Brien without requiring the signing by him of an undertaking as to the confidentiality of that disclosure. The Commission further ordered that:

1) all disclosure materials provided to O'Brien are confidential and may be used by him only for the purpose of making full answer and defence in this proceeding. The use of disclosure materials for any other purpose is strictly prohibited. All disclosure materials provided to O'Brien are subject to the strict confidentiality restrictions imposed by section 16 of the Act;

2) O'Brien is also subject to the implied undertaking that all disclosure materials provided to him are subject to the restrictions on use referred to in paragraph (1);

3) the Previous Undertaking signed by O'Brien is binding upon him and applies by its terms to all of the disclosure materials provided by Staff to O'Brien, including all disclosure materials provided by Staff to O'Brien in the future; if O'Brien wishes to challenge the validity of the Previous Undertaking he is entitled to bring a motion before the Commission to do so; and

4) if O'Brien wishes to use the disclosure materials provided by Staff to him for any purpose other than as provided in paragraph (1), he must make an application to the Commission under section 17 of the Act for an order of the Commission consenting to that use;

AND WHEREAS at the confidential pre-hearing conference on May 30, 2011, Staff and O'Brien appeared and Staff sought to set dates for a hearing on the merits, while O'Brien advised the Commission that he was opposed to Staff's request. The Commission adjourned the hearing to June 20, 2011 at 10:00 a.m., for the purpose of setting the dates for the hearing on the merits;

AND WHEREAS at the confidential pre-hearing conference on June 20, 2011, Staff and O'Brien appeared and scheduling of the hearing on the merits was discussed and the Commission ordered that:

1. the hearing on the merits is to commence on March 12, 2012 at 10:00 a.m. at the offices of the Commission, and shall continue on March 14, 15, 16, 19, 20, 21, 22, 23, 26, and 28, 2012, or such further or other dates as may be agreed upon by the parties and fixed by the Office of the Secretary; and

2. a further confidential pre-hearing conference shall take place on January 11, 2012 at 10:00 a.m.;

AND WHEREAS at the confidential pre-hearing conference on January 11, 2012, Staff appeared and Counsel on behalf of O'Brien appeared, who advised the Commission that he had just been appointed to represent O'Brien in this matter;

AND WHEREAS Counsel for O'Brien requested that the pre-hearing conference be continued in a few weeks time to permit him to address certain matters that had just been brought to his attention. The Commission ordered that a further confidential pre-hearing conference take place on January 31, 2012 at 3:30 p.m.;

AND WHEREAS at the confidential pre-hearing conference on January 31, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien requested an adjournment of the hearing on the merits to permit interim issues to be raised before the Commission. Counsel for O'Brien also requested that the records from both the January 11 and 31, 2012 confidential pre-hearing conferences be sealed and treated as confidential. The Commission ordered that the hearing dates of March 12, 14, 15, 16, 19, 20, 21, 22, 23, 26 and 28, 2012 be vacated, a further confidential pre-hearing conference take place on March 12, 2012 at 10:00 a.m., and that the records from both the January 11 and 31, 2012 confidential pre-hearing conferences be sealed and treated as confidential pursuant to subsection 9(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "SPPA") and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential pre-hearing conference on March 12, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien requested a confidential motion be scheduled to seek an adjournment of the hearing dates. The Commission ordered that a confidential motion take place on April 18, 2012 at 10:00 a.m., for which O'Brien shall serve and file a motion record, including any affidavits to be relied upon, by April 5, 2012 at 4:30 p.m., Staff shall serve and file any responding materials by April 12, 2012, O'Brien shall serve and file a factum by April 13, 2012, and Staff shall file its factum by April 16, 2012, and that the records from the March 12, 2012 confidential pre-hearing conference and from the April 18, 2012 confidential motion shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential motion on April 18, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien presented evidence and requested an adjournment of any hearing dates and that a further confidential pre-hearing conference be scheduled. Staff did not oppose the adjournment request and agreed to the scheduling of a further pre-hearing conference. The Commission ordered that a confidential pre-hearing conference shall take place on July 19, 2012 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by July 9, 2012, and that the records from the July 19, 2012 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential pre-hearing conference on July 19, 2012, Staff and Counsel for O'Brien appeared and presented evidence and requested that a further confidential pre-hearing conference be scheduled. The Commission ordered that a confidential pre-hearing conference shall take place on September 28, 2012 at 11:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by September 18, 2012, and that the records from the September 28, 2012 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential pre-hearing conference on September 28, 2012, Staff and Counsel for O'Brien appeared and presented evidence as contemplated at the earlier pre-hearing conference. Staff sought to set dates for a hearing on the merits, while counsel for O'Brien requested a further confidential pre-hearing conference before hearing dates are set. The Commission ordered that a confidential pre-hearing conference shall take place on October 25, 2012 at 3:00 p.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by October 22, 2012, and that the records from the

September 28, 2012 and October 25, 2012 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential pre-hearing conference on October 25, 2012, Staff and Counsel for O'Brien appeared and presented evidence and Staff did not object to Counsel for O'Brien requesting a further confidential pre-hearing conference. The Commission ordered that a confidential pre-hearing conference shall take place on March 7, 2013 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by March 1, 2013 and that the records from the October 25, 2012 and March 7, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS Staff requested an adjournment until March 11, 2013 and Counsel for O'Brien confirmed his availability for March 11, 2013 as an alternate date for the pre-hearing conference. The Commission ordered that the pre-hearing date of March 7, 2013 is vacated, a confidential pre-hearing conference shall take place on March 11, 2013 at 11:00 a.m., and the records of the March 11, 2013 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*, (2012), 35 OSCB 10071;

AND WHEREAS at the confidential pre-hearing conference on March 11, 2013, Staff and Counsel for O'Brien appeared and presented evidence and requested that a further confidential pre-hearing conference be scheduled. The Commission ordered that a confidential pre-hearing conference shall take place on July 18, 2013 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by July 8, 2013 and that the records from the March 11, 2013 and July 18, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

AND WHEREAS at the confidential pre-hearing conference on July 18, 2013, Staff and Counsel for O'Brien appeared and made submissions and requested that a further confidential pre-hearing conference be scheduled;

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

IT IS HEREBY ORDERED THAT:

1. a confidential pre-hearing conference shall take place on September 30, 2013 at 10:00 a.m.;

2. O'Brien shall file and serve any materials on which he intends to rely at the pre-hearing conference by September 23, 2013; and

3. the records from the July 18, 2013 and September 30, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the Rules of Procedure.

DATED at Toronto this 18th day of July, 2013.

"Mary G. Condon"

2.2.18 Diadem Resources Ltd. – s. 144

Headnote

Application for partial revocation of cease trade order – variation of cease trade order to permit certain trades for the purpose of debt settlement and private placement financing with accredited investors – issuer may have inadvertently breached cease trade order – partial revocation granted subject to conditions.

Applicable Legislative Provisions

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

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

AND

IN THE MATTER OF
DIADEM RESOURCES LTD.

ORDER
(Section 144 of the Act)

WHEREAS the securities of Diadem Resources Ltd. (the **Applicant**) are subject to a temporary cease trade order issued by the Director on October 9, 2012 pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further cease trade order issued by the Director on October 22, 2012 pursuant to paragraph 2 of subsection 127(1) of the Act (the **Ontario Cease Trade Order**), directing that all trading in the securities of the Applicant, whether direct or indirect, cease until the order is revoked by the Director;

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 144 of the Act to partially revoke the Ontario Cease Trade Order (the **Order**);

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is an Ontario incorporated company. The Applicant's registered office is located at Suite 800, 150 York Street, Toronto, Ontario, M5H 3S5 and its head office is located at Suite 400, 485 McGill Street, Montréal, Québec H2Y 2H4.

2. As at the date hereof, the authorized capital of the Applicant consists of an unlimited number of common shares (the **Common Shares**) of which 50,008,848 are issued and outstanding and an unlimited number of special shares of which none are issued and outstanding. Other than the Common Shares, the Applicant has no securities (including debt securities) issued and outstanding.

3. The Applicant is a reporting issuer in the provinces of Alberta, British Columbia, Ontario and Quebec. The Applicant is not a reporting issuer or the equivalent in any other jurisdiction in Canada.

4. On October 3, 2012, trading in the Common Shares on the TSX Venture Exchange (the **Exchange**) was suspended. Effective January 2, 2013, the Exchange advised the Applicant that it did not meet Tier 2 Continued Listing Requirements of the Exchange and effective January 7, 2013 transferred the Common Shares to the NEX, a separate board of the Exchange, on which the trading in the Common Shares remain suspended.

5. The Ontario Cease Trade Order was issued as a result of the Applicant's failure to file, in accordance with the requirements of Ontario securities law, audited annual financial statements and the related management's discussion and analysis for the year ended May 31, 2012 and certification of the foregoing filings as required by National Instrument 52-109, *Certification of Disclosures in Issuers' Annual and Interim Filings*.

6. In addition to the Ontario Cease Trade Order, the Applicant is subject to the following cease trade orders, each of which was issued due to, in part, the failure to file the 2012 Annual Statements:

   (a) an order issued by the Alberta Securities Commission on January 17, 2013;

(b) an order issued by the British Columbia Securities Commission on October 5, 2012; and

(c) an order issued by the Quebec L'Autorité des Marchés Financiers on October 18, 2012,

(collectively, the **Other Cease Trade Orders**).

7. The Applicant's failure to file the audited annual financial statements, related management's discussion and analysis for the year ended May 31, 2012 and certification of the foregoing filings as required by National Instrument 52-109, *Certification of Disclosures in Issuers' Annual and Interim Filings* and subsequent continuous disclosure documents is a result of financial distress. If the Applicant cannot proceed with the Financing (as defined below), it is likely that the Applicant will not be able to continue its operations.

8. The Applicant intends to complete a non-brokered private placement of securities (the **Financing**) to raise up to $200,000 to allow the Applicant to bring itself back into compliance with its continuous disclosure obligations by filing the Required Documents (as defined below) and to satisfy certain outstanding debts, filing fees and other expenses of the Applicant as described more fully in paragraph 10 below. The Financing will be conducted on a prospectus exempt basis with subscribers who are accredited investors (as such term is defined in National Instrument 45-106 *Prospectus and Registration Exemptions*) resident in the provinces of Alberta, British Columbia, Ontario and Quebec (each a **Potential Investor**).

9. To the knowledge of the Applicant none of the Potential Investors will be insiders or related parties of the Applicant.

10. The proceeds of the Financing are estimated to be applied as follows:

		$
a.	Legal fees:	62,000
b.	Accounting and audit fees	88,000
c.	Management fees and expenses	13,000
d.	Filings of materials, including penalties for both partial and full revocation orders	37,000
	Total Expenses	200,000

11. The Applicant believes that the proceeds of the Financing will be sufficient to bring its continuous disclosure obligations up to date and pay all related outstanding fees. In the event that the amount of the Financing is not raised, any funds raised would be returned to the Potential Investors and management would continue its search for an alternative financing.

12. As the Financing will involve trades of securities and acts in furtherance of trades, the Financing cannot be completed without a partial revocation of the Ontario Cease Trade Order.

13. The Financing will be completed in accordance with all applicable laws.

14. Prior to completion of the Financing, each Potential Investor resident in Ontario will:

(a) receive a copy of the Ontario Cease Trade Order,

(b) receive a copy of this Order, and

(c) receive a written notice from the Applicant, and will provide a written acknowledgement to the Applicant, that all of the Applicant's securities, including the Common Shares issued in connection with the Financing, will remain subject to the Ontario Cease Trade Order and the Other Cease Trade Orders until they are each revoked, and that the granting of this Order does not guarantee the issuance of any such full revocation orders in the future.

15. Upon issuance of this Order, the Applicant will issue a news release and file a material change report announcing the Financing and this Order.

16. Upon completion of the Financing and within the reasonable period of time, the Applicant will apply to the Commission for a full revocation of the Ontario Cease Trade Order and will also apply to the securities regulatory authorities where the Other Cease Trade Orders are in effect for a full revocation of those orders.

17. The Applicant has not been previously subject to a cease trade order by the Commission.

18. The Applicant is not in default of any requirements of the Act or the rules and regulations made pursuant thereto, other than:

    (a) the Applicant's failure to file the following documents (collectively, the **Required Documents**):

        i. audited annual financial statements for the year ended May 31, 2012, related management's discussion and analysis and certification of the foregoing filings by the Chief Executive Officer and the Chief Financial Officer of the Applicant as required by National Instrument 52-109 *Certification of Disclosures in Issuers' Annual and Interim Filings*.

        ii. interim financial statements for the three, six and nine month periods ended August 31, 2012, November 30, 2012 and February 28, 2013 respectively, related management's discussion and analyses for the three, six and nine month periods ended August 31, 2012, November 30, 2012 and February 28, 2013 respectively, and all certifications of the foregoing filings by the Chief Executive Officer and the Chief Financial Officer of the Applicant as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*.

    (b) the possible contravention of the Ontario Cease Trade Order described in paragraph 22 below.

19. The Applicant is not considering, nor is it involved in any discussion relating to, a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

20. The Applicant entered into a definitive agreement dated May 6, 2013 with Darnley Bay Resources Limited (**DBR**) to acquire DBR's 50% interest in the Franklin Property in the Parry Peninsula of the Northwest Territories (the **DBR Agreement**) as more fully described in the DBR Agreement. The DBR Agreement was entered into further to a Memorandum of Understanding executed by the Applicant and DBR on September 28, 2011. The consideration payable by the Applicant to DBR pursuant to the DBR Agreement includes: (i) the issuance of 11,700,000 Common Shares; the issuance of 11,700,000 warrants to buy an equivalent number of Common Shares at $0.10 per share for a period of 30 months subsequent to the closing date, originally anticipated to be June 30, 2013 (the **Closing Date**); and (iii) the grant of a right to purchase up to $40,000 of securities of the Applicant at the lowest price per security offered to third party investors, in connection with the Applicant's first equity financing after the Closing Date.

21. Although completion of the DBR Agreement is conditional upon the Applicant receiving all regulatory and shareholder approvals, including the TSX Venture Exchange, by entering into the DBR Agreement the Applicant may have contravened the Ontario Cease Trade Order and the Other Cease Trade Orders since the DBR Agreement contemplates the issuance of the Applicant's securities to DBR.

22. To the knowledge of the Applicant, none of the potential investors in the Financing are related to DBR, its officers and directors.

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

AND WHEREAS the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 144 of the Act, that the Ontario Cease Trade Order is partially revoked solely to permit trades in securities of the Applicant (including, for greater certainty, acts in furtherance of trades in securities of the Applicant) that are necessary for and are in connection with the Financing, provided that:

(a) prior to completion of the Financing, each Potential Investor resident in Ontario will:

    (i) receive a copy of the Ontario Cease Trade Orders,

    (ii) receive a copy of this Order, and

    (iii) receive a written notice from the Applicant, and will provide a written acknowledgement to the Applicant, that all of the Applicant's securities, including the Common Shares issued in connection with the Financing, will remain subject to the Ontario Cease Trade Order and the Other Cease Trade

Orders until they are each revoked, and that the granting of this Order does not guarantee the issuance of any such full revocation orders in the future, and

(b) the Applicant will provide signed and dated written acknowledgements referred to in paragraph (a)(iii) above to staff of the Commission on request; and

(c) this Order will terminate on the earlier of:

(i) the closing of the Financing; and

(ii) 120 days from the date hereof.

DATED at Toronto this 19th day of July, 2013.

"Kathryn Daniels"
Deputy Director, Corporate Finance Branch
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 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

SETTLEMENT AGREEMENT
BETWEEN STAFF AND ONIX INTERNATIONAL INC. AND TYRONE CONSTANTINE PHIPPS

PART I – INTRODUCTION

1. By Notice of Hearing dated March 8, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 3, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Onix International Inc. ("Onix International") and Tyrone Constantine Phipps ("Phipps") (collectively the "Respondents"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated March 7, 2013.

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

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated March 8, 2013 against the Respondents (the "Proceeding") in accordance with the terms and conditions set out below. The Respondents consent to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III – AGREED FACTS

Overview

4. This proceeding involves the unregistered trading and illegal distribution of securities by the Respondents.

5. Onix International was provincially incorporated in Ontario on February 6, 2009. During the Material Time (defined below), the registered office of Onix International was located in Ontario.

6. Phipps is a resident of Ontario. Phipps incorporated Onix International and was a director, officer, and the directing mind of Onix International at all material times.

7. Onix International was incorporated by Phipps for the purpose of entering into a business relationship with ENC Security Systems Inc. ("ENC") to market and sell ENC's "encrypt-stick" encryption software (the "Encrypt-Stick Software").

8. ENC was incorporated pursuant to the laws of British Columbia and its operations are located primarily in British Columbia. ENC is in the business of developing computer encryption software, including the Encrypt-Stick Software.

9. On September 21, 2009, Onix International entered into a "World Wide License Agreement" with ENC that, among other things, granted Onix International the worldwide license to promote, distribute, market and sell the Encrypt-Stick Software (the "License Agreement").

10. At the time it entered into the License Agreement, Onix International had no active business operations and its sole anticipated business related to ENC and the License Agreement.

11. Starting in March 2009, the Respondents began selling royalty units to members of the public for the purpose of raising capital to fund the ongoing operations of ENC (the "ENC Royalty Units"). The Respondents raised approximately $436,000 from 29 investors including residents of Ontario (the "ENC Investors") between March 1, 2009 and June 3, 2009 (the "ENC Material Time").

12. In April 2009, the Respondents also began selling royalty units to members of the public for the purpose of raising capital to fund the operations of Onix International (the "Onix Royalty Units"). The Respondents raised approximately $232,000 from 17 investors including residents of Ontario (the "Onix Investors") between April 11, 2009 and December 31, 2009 (the "Onix Material Time"). Some of the Onix Investors were also ENC Investors.

13. In total, the Respondents raised approximately $668,000 from approximately 38 investors between March 2009 and December 2009 (the "Material Time").

14. Neither Onix International nor Phipps was registered to trade in securities and the securities at issue were not qualified by a prospectus.

The Distribution of the ENC and Onix Royalty Units

15. As noted above, starting in March 2009, the Respondents began selling the ENC Royalty Units to the ENC Investors for the purpose of funding the ongoing operations of ENC.

16. The ENC Royalty Units entitled the ENC Investors to 0.01 percent of gross revenue from worldwide sales of the Encrypt-Stick Software and "all future products sold by [ENC]".

17. The Respondents provided the ENC Investors with subscription agreements and other documents to support their investment in the ENC Royalty Units.

18. During the ENC Material Time, the Respondents raised a total of approximately $436,000 from the sale of the ENC Royalty Units to the ENC Investors.

19. The funds raised by the Respondents from the ENC Investors were provided to ENC to fund its operations.

20. One month into selling the ENC Royalty Units, in April 2009, the Respondents also began selling the Onix Royalty Units.

21. Like the ENC Royalty Units, the Onix Royalty Units purported to entitle the purchaser to 0.01 percent of gross revenue from worldwide sales of the Encrypt-Stick Software and the Respondents relied on virtually identical materials to sell them.

22. During the Onix Material Time, the Respondents raised a total of approximately $232,000 from the sale of the Onix Royalty Units to the Onix Investors.

23. The funds raised by the Respondents from the Onix Investors were retained by the Respondents and/or used to fund the operations of Onix International.

24. The ENC Royalty Units and the Onix Royalty Units were "securities" as defined in section 1(1) of the Act that had not been previously issued.

25. During the Material Time, neither ENC nor Onix International was a reporting issuer and neither the ENC Royalty Units nor the Onix Royalty Units were qualified by a prospectus.

26. Neither Onix International nor Phipps was ever registered in any capacity with the Commission.

PART IV – CONDUCT CONTRARY TO THE PUBLIC INTEREST

27. By engaging in the conduct described above, the Respondents admit and acknowledge that they contravened Ontario securities law during the Material Time in the following ways:

(a) During the Material Time, the Respondents traded in and engaged in and held themselves out as engaging in the business of trading in securities without being registered to trade in securities, contrary to subsection 25(1) of the Act and contrary to the public interest; and

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

28. The Respondents admit and acknowledge that they acted contrary to the public interest by contravening Ontario securities law as set out in sub-paragraphs 27 (a) and (b) above.

PART V – TERMS OF SETTLEMENT

29. The Respondents agree to the terms of settlement listed below.

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

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Onix International cease permanently from the date of the approval of the Settlement Agreement;

(c) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Phipps cease for 10 years from the date of the approval of the Settlement Agreement;

(d) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Phipps is prohibited for 10 years from the date of the approval of the Settlement Agreement;

(e) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Phipps for 10 years from the date of the approval of the Settlement Agreement;

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

(g) pursuant to clauses 8, 8.2, and 8.4 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of the approval of the Settlement Agreement from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

(h) pursuant to clause 8.5 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of the approval of the Settlement Agreement from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

(i) pursuant to clause 10 of subsection 127(1) of the Act, the Respondents shall disgorge to the Commission, on a joint and several basis, the amount of $232,000 obtained as a result of their non-compliance with Ontario securities law. The amount of $232,000 disgorged shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to clause 9 of subsection 127(1) of the Act, Phipps shall pay an administrative penalty in the amount of $25,000 for his failure to comply with Ontario securities law. The administrative penalty in the amount of $25,000 shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to subsection 37(1) of the Act, Phipps is prohibited for 10 years, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(l) Notwithstanding the provisions of paragraph 30 herein, once Phipps has fully satisfied the terms of sub-paragraphs (i) and (j) above, Phipps shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer.

31. The Respondents undertake to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in sub-paragraphs 30 (b) to (h) and (k) above.

PART VI – STAFF COMMITMENT

32. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against the Respondents in relation to the facts set out in Part III herein, subject to the provisions of paragraph 33 below.

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

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

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

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

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

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

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

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

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

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

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

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

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated this 21, day of June, 2013.

Signed in the presence of:

"Anthony Harry"
Witness: Anthony Harry

"Tyrone Constantine Phipps"
Tyrone Constantine Phipps

Personally and on behalf of Onix International Inc.

Dated this 21 day of June, 2013

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

Dated this 21 day of June, 2013

SCHEDULE "A"

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

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
ONIX INTERNATIONAL INC. AND
TYRONE CONSTANTINE PHIPPS

ORDER
(Sections 37 and 127(1))

WHEREAS by Notice of Hearing dated March 8, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 3, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Onix International Inc. ("Onix International") and Tyrone Constantine Phipps ("Phipps") (collectively the "Respondents"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated March 7, 2013;

AND WHEREAS the Respondents entered into a settlement agreement with Staff dated _____, 2013 (the "Settlement Agreement") in which the Respondents agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated March 8, 2013, subject to the approval of the Commission;

WHEREAS on _____, 2013, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from the Respondents and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Onix International cease permanently from the date of this Order;

(c) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Phipps cease for 10 years from the date of the approval of this Order;

(d) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Phipps is prohibited for 10 years from the date of this Order;

(e) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Phipps for 10 years from the date of this Order;

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

(g) pursuant to clauses 8, 8.2, and 8.4 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of this Order from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

(h) pursuant to clause 8.5 of subsection 127(1) of the Act, Phipps is prohibited for 10 years from the date of this Order from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

(i) pursuant to clause 10 of subsection 127(1) of the Act, the Respondents shall disgorge to the Commission, on a joint and several basis, the amount of $232,000 obtained as a result of their non-compliance with Ontario securities law. The amount of $232,000 disgorged shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to clause 9 of subsection 127(1) of the Act, Phipps shall pay an administrative penalty in the amount of $25,000 for his failure to comply with Ontario securities law. The administrative penalty in the amount of $25,000 shall be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to subsection 37(1) of the Act, Phipps is prohibited for 10 years, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(l) Notwithstanding the provisions of this Order, once Phipps has fully satisfied the terms of sub-paragraphs (i) and (j) above, Phipps shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer.

DATED at Toronto this _____ day of _____, 2013.

3.1.2 Rezwealth Financial Services Inc. et al. – s. 127

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

AND

IN THE MATTER OF
REZWEALTH FINANCIAL SERVICES INC.,
PAMELA RAMOUTAR, JUSTIN RAMOUTAR,
TIFFIN FINANCIAL CORPORATION, DANIEL TIFFIN,
2150129 ONTARIO INC., SYLVAN BLACKETT,
1778445 ONTARIO INC. and WILLOUGHBY SMITH

REASONS AND DECISION
(Section 127 of the Securities Act)

Hearing:	October 31, November 1, 2, 5, 7-9, December 3, 5, 6, 10-13, 17, 2012 and March 1, 2013		
Decision:	July 17, 2013		
Panel:	Edward P. Kerwin	–	Commissioner and Chair of the Panel
Appearances:	Amanda Heydon Yvonne Chisolm	–	For Staff of the Ontario Securities Commission
	Michael Donsky	–	For Daniel Tiffin and Tiffin Financial Corporation
	Pamela Ramoutar	–	For herself and Rezwealth Financial Services Inc.
	Willoughby Smith	–	For himself and 1778445 Ontario Inc.
	Justin Ramoutar	–	For himself
	No one appeared for	–	Sylvan Blackett 2150129 Ontario Inc.

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REASONS AND DECISION

I. BACKGROUND

A. Overview

[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 Rezwealth Financial Services Inc. ("**Rezwealth**"), Pamela Ramoutar ("**Ms. Ramoutar**"), Justin Ramoutar ("**Mr. Ramoutar**"), Tiffin Financial Corporation ("**Tiffin Financial**"), Daniel Tiffin ("**Tiffin**"), 2150129 Ontario Inc. ("**215 Inc.**"), Sylvan Blackett ("**Blackett**"), 1778445 Ontario Inc. ("**177 Inc.**") and Willoughby Smith ("**Smith**") (collectively, the "**Respondents**") breached the Act and acted contrary to the public interest.

[2] The merits proceeding was commenced by a Statement of Allegations and Notice of Hearing dated January 24, 2011. Subsequently, on January 24, 2012, an Amended Statement of Allegations was filed by Staff and an Amended Notice of Hearing was issued by the Commission. Enforcement Staff of the Commission ("Staff") alleges that between August 22, 2006 and December 31, 2009 (the "**Material Time**"), the Respondents solicited investments from Ontario residents, purportedly to engage in foreign currency ("**forex**") trading and other ventures. Staff alleges that Blackett and 215 Inc. raised at least $3 million from approximately 56 investors, Smith's conduct resulted in at least 48 investors investing approximately $1.2 million with Blackett, Rezwealth raised at least $2.9 million from approximately 44 investors and Tiffin's conduct resulted in at least 19 investors investing at least $2 million with Rezwealth.

[3] In addition, Staff alleges that a large portion of investor funds provided to Blackett and 215 Inc. was used by Blackett for personal expenditures and to make monthly return and redemption payments to other investors. Staff also alleges that monthly return payments to investors were facilitated by Smith through 177 Inc.'s bank account. Furthermore, it is alleged that between July 1, 2009 and December 31, 2009 Rezwealth used at least part of the new investor funds it received to pay other investors their monthly interest returns and principal redemptions and Rezwealth continued to accept new investor funds in order to meet its obligations to investors, which was misleading and/or fraudulent in the circumstances.

B. History of the Proceeding

[4] The hearing on the merits began on October 31, 2012 (the "**Merits Hearing**"). On that day Ms. Ramoutar requested an adjournment of the Merits Hearing by way of a motion to amend the Commission's order of April 5, 2012 (the "**April 5 Order**"). The April 5 Order was peremptory to the Respondents, set the dates for the Merits Hearing to commence on October 31, 2012 and vacated merits hearing dates previously set to commence on April 30, 2012. Ms. Ramoutar, her representative and Staff made submissions on the matter of adjournment and counsel for Tiffin and Tiffin Financial (the "**Tiffin Respondents**") took no position. The Panel considered the submissions of the parties and the applicability of section 144 of the Act and the relevant factors listed in Rule 9.2 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the "***OSC Rules of Procedure***"). The Panel was not satisfied that an adjournment was in the public interest or necessary to provide an opportunity for a fair hearing of this matter and provided oral reasons for its decision before proceeding with the Merits Hearing.

[5] On October 31, 2012, Staff and counsel for the Tiffin Respondents tendered into evidence an Agreed Statement of Facts (the "**Agreed Facts**") in which the Tiffin Respondents admitted to engaging in conduct that was in breach of subsection 25(1)(a), as that section was in effect at the commencement of the conduct, subsection 25(1) as amended on September 28, 2009, and subsection 53(1) of the Act and that the conduct was contrary to the public interest. The Agreed Facts also contained an admission that Tiffin authorized, permitted or acquiesced in Tiffin Financial's non-compliance with Ontario securities law, and accordingly failed to comply with Ontario securities law, pursuant to section 129.2 of the Act and contrary to the public interest. I accept Staff and the Tiffin Respondents' joint submission of the evidence with respect to the allegations against the Tiffin Respondents.

[6] Over the course of fifteen hearing days, I heard evidence from 10 investor witnesses, seven called by Staff and three by Ms. Ramoutar. I also heard the testimony of Staff's forensic accountant, Michael Ho, of Ms. Ramoutar on her own behalf and of witness J.K. on behalf of Ms. Ramoutar. I considered written submissions of Staff, dated February 4, 2013, of Smith, filed February 11, 2013 and March 12, 2013, and of Ms. Ramoutar, Mr. Ramoutar and Rezwealth (the "**Rezwealth Respondents**"),

filed February 12, 2013. Closing oral submissions were heard on March 1, 2013, at which time Smith indicated he had not received the Rezwealth Respondents' submissions prior to the hearing date. The Panel, in fairness to Smith, permitted that he file a written reply to new matters raised in the Rezwealth Respondents' submissions by March 8, 2012. Staff did not object to such additional filing by Smith, provided that Smith's reply was confined to new issues that have arisen out of his review of the Rezwealth Respondents' submissions. None of the parties objected to his late filing of the reply.

[7] For the reasons set out below, I conclude that the Respondents breached subsection 25(1)(a), as that section was in effect until September 28, 2009, subsection 25(1), as amended on September 28, 2009, and subsection 53(1) of the Act, and that such conduct is contrary to the public interest. I also conclude that 215 Inc., Blackett, Rezwealth, Ms. Ramoutar and Mr. Ramoutar engaged or participated in acts, practices or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest. Lastly, I find that Blackett, as the officer and director of 215 Inc., Ms. Ramoutar and Mr. Ramoutar, as officers and directors of Rezwealth, Smith, as an officer and director of 177 Inc., and Tiffin, as the officer and director of Tiffin Financial, authorized, permitted or acquiesced in non-compliance with the Act by 215 Inc., Rezwealth, 177 Inc. and Tiffin Financial (the "**Corporate Respondents**"), respectively, and are deemed to also have not complied with Ontario securities law, pursuant to section 129.2 of the Act and that such conduct is contrary to the public interest.

C. The Respondents

1. Corporate Respondents

[8] 215 Inc. was incorporated in Ontario on October 3, 2007 and had its registered office in Brampton, Ontario. 215 Inc. purported to engage in forex trading. Blackett was the sole director of 215 Inc. from the date of incorporation.

[9] 177 Inc. was incorporated in Ontario on September 4, 2008 and had its registered office in Brampton, Ontario. 177 Inc. made payments to investors on behalf of Blackett and 215 Inc.. Smith is one of three directors of 177 Inc.

[10] Rezwealth was incorporated in Ontario on May 11, 2007 and had its registered address in Markham, Ontario. Rezwealth purported to be in the business of credit restoration. Rezwealth pooled investor funds for investment in forex trading by Blackett and 215 Inc. and other ventures. Corporate records show that Ms. Ramoutar is a director and Mr. Ramoutar is a director and treasurer of Rezwealth.

[11] Tiffin Financial was incorporated in Ontario on December 24, 1999. Tiffin Financial referred clients to Rezwealth for investment in forex trading by Blackett and 215 Inc. Tiffin is the sole director and officer of Tiffin Financial.

[12] There is no record of any of the Corporate Respondents having been registered under the Act.

2. Individual Respondents

[13] Blackett was the sole director of 215 Inc. from the date of incorporation and is listed on the company's Certificate of Incorporation as President. Blackett purported to be a forex trader.

[14] Smith, one of three directors of 177 Inc., was registered with the Commission as a mutual fund dealer and limited market dealer from May 3, 2002 to September 30, 2005. Smith referred clients to Blackett and his company for the purpose of Blackett's forex trading. Smith admitted that he was the only director of 177 Inc. involved in the corporation's activities with Blackett.

[15] Ms. Ramoutar testified that she was the founder, a director and the directing mind of Rezwealth. Ms. Ramoutar and Mr. Ramoutar are directors of Rezwealth. Mr. Ramoutar is Ms. Ramoutar's son. Ms. Ramoutar was registered with the Commission as a mutual fund dealer from March 11, 2002 to December 31, 2004.

[16] Tiffin is the sole director and officer of Tiffin Financial. Tiffin was previously registered with the Commission, but has not been registered since August 10, 1999.

[17] There is no record of Blackett, Smith, Ms. Ramoutar, Mr. Ramoutar or Tiffin (the "**Individual Respondents**") having been registered under the Act during the Material Time.

D. The Allegations

[18] Staff alleges that the Respondents engaged in unregistered trading and an illegal distribution of securities, contrary to subsection 25(1)(a), as that section was in effect until September 28, 2009, subsection 25(1) as amended on September 28, 2009, and subsection 53(1) of the Act and contrary to the public interest.

[19] In addition, Staff alleges that 215 Inc., Blackett, Rezwealth, Ms. Ramoutar and Mr. Ramoutar engaged or participated in acts, practices or courses of conduct relating to securities of 215 Inc. and/or Rezwealth that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest. Staff also alleges that each of the Individual Respondents, as officers and directors of certain Corporate Respondents, authorized, permitted or acquiesced in the Corporate Respondents' respective non-compliance with Ontario securities law, and accordingly failed to comply with Ontario securities law, pursuant to section 129.2 of the Act and contrary to the public interest.

II. PRELIMINARY ISSUES

A. Failure of Some Respondents to Attend

1. Respondent Participation

[20] Blackett and 215 Inc. did not appear or make submissions. Counsel for the Tiffin Respondents appeared on the first day of the Merits Hearing for the purpose of tendering into evidence the Agreed Facts, but did not otherwise appear or make submissions.

[21] Ms. Ramoutar, on behalf of herself, Mr. Ramoutar and Rezwealth, attended the hearing in person and was represented in a limited capacity by O.H., a friend and investor, from time to time during the Merits Hearing. Mr. Ramoutar appeared sporadically throughout the Merits Hearing. Ms. Ramoutar and Mr. Ramoutar made closing submissions.

[22] Smith appeared in person as of December 3, 2012, on the eighth day of the Merits Hearing, and was present on the hearing days thereafter, except for December 10 and 17, 2012, and made closing submissions.

2. The Law

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

[24] Subsection 7(1) of the SPPA, authorizes a tribunal to proceed in the absence of a party when that party has been given notice of the hearing. The provision 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.

[25] Further, Rule 7.1 of the *OSC Rules of Procedure* provides:

> **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.

3. Authority to Proceed in Absence of Respondents

[26] I am satisfied that Staff served all Respondents with notice of the hearing as evidenced by the Affidavit of Service of Lee Crann sworn January 31, 2012 and the Affidavits of Service Brief tendered by Staff. I also note that the Notice of Hearing, the Statement of Allegations, the Amended Notice of Hearing and the Amended Statement of Allegations were posted on the Commission's website, as was the April 5 Order which set out the dates on which the Merits Hearing was scheduled to take place. I am therefore authorized to proceed in the absence of some of the Respondents in accordance with subsection 7(1) of the SPPA.

B. The Standard of Proof

[27] The standard of proof in this hearing is the civil standard of proof on a balance of probabilities and evidence must be sufficiently clear, convincing and cogent (*F.H. v. McDougall*, [2008] 3 S.C.R. 41 at paras. 46 and 49).

C. Hearsay Evidence

[28] This Panel has the discretion to admit relevant evidence that might not otherwise be admissible as evidence in a court, including hearsay evidence, under subsection 15(1) of the SPPA, subject to the weight given to such evidence.

III. ISSUES

[29] The following issues were raised in the hearing:

(a) Did the Respondents engage in unregistered trading, contrary to subsection 25(1)(a)of the Act, for conduct predating September 28, 2009, and subsection 25(1) of the Act, for conduct on and after September 28, 2009, and contrary to the public interest?;

(b) Did the Respondents distribute securities without having filed a prospectus, contrary to subsection 53(1) of the Act and contrary to the public interest?;

(c) Did 215 Inc., Blackett, Rezwealth, Ms. Ramoutar and Mr. Ramoutar engage or participate in acts, practices or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest?; and

(d) Did Blackett, Smith, Ms. Ramoutar, Mr. Ramoutar and/or Tiffin authorize, permit or acquiesce in non-compliance with Ontario securities law by certain of the Corporate Respondents, such that they are deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest?

IV. EVIDENCE

A. Overview

[30] Over the course of fifteen hearing days, I heard evidence from 10 investor witnesses, seven called by Staff and three by Ms. Ramoutar. I also heard the testimony of Staff's forensic accountant, Michael Ho ("**Ho**"), of Ms. Ramoutar on her own behalf and of witness J.K. on behalf of Ms. Ramoutar.

[31] To protect the privacy of investors and witnesses, I have referred to them anonymously by initials rather than using their respective names. In addition, I required that Staff provide a redacted version of the record to serve the same purpose.

[32] Staff tendered 28 exhibits at the hearing through their own witnesses and cross-examination. Ms. Ramoutar testified on her own behalf and tendered 39 exhibits through herself, her witnesses and cross-examination. Tiffin's compelled examination was also tendered through Ho at the request of Ms. Ramoutar. None of the other Respondents tendered any evidence at the hearing.

B. Credibility

[33] In cross-examination, Ms. Ramoutar challenged the credibility of two of Staff's witnesses. She challenged investor M.L.T.'s testimony about M.L.T.'s purported lack of knowledge about Blackett's business and M.L.T.'s denial of having received money from Blackett in excess of her investment as calculated by Ho. In addition, Ms. Ramoutar challenged Ho's testimony in respect of the origins of a blacked-out document containing Rezwealth letterhead.

[34] When weighing the conflicting testimony of the witnesses in this case, I have considered whether the evidence is in harmony with the preponderance of probabilities disclosed by the facts and circumstances in this case.

C. Respondents Not Registered Under the Act and Did Not File a Prospectus

[35] Ho obtained corporate profile reports of each of the Corporate Respondents, which confirm the positions of various individual respondents within 215 Inc., 177 Inc. and Rezwealth's corporate structures. Ho also obtained certificates of registration under section 139 of the Act, which confirm that the Respondents were not registered under the Act and that neither 215 Inc. nor Rezwealth filed a prospectus with the Commission during the Material Time. The Agreed Facts confirm that the Tiffin Respondents were not registered during the Material Time.

D. Conduct of Blackett, 215 Inc., Smith and 177 Inc.

[36] Ho testified that he interviewed a number of investors who had provided funds to Blackett. It was Ho's evidence that Blackett offered investors two types of investment products: (i) agreements with investment returns payable on a monthly basis (the "**Monthly Investment**"); and (ii) compound annual agreements, through which interest would be compounded and paid at the end of the term along with the principal (the "**Compound Investment**") (together, the "**Blackett Investment(s)**"). Ho testified that investors were told by Blackett that their funds would be used to trade in forex. Ho also testified that the rate of return offered by Blackett was at least 5 percent to 10 percent per month at a fixed rate.

[37] The earliest Blackett Investment for which evidence was tendered is dated September 19, 2006 and the latest is dated September 18, 2009. Staff, through Ho, tendered 75 documents, each entitled "Loan Agreement" and signed by Blackett, on behalf of himself and/or 215 Inc., as evidence of the Blackett Investments.

1. Investor Testimonies

(a) Investor M.L.T.

[38] Investor M.L.T. met Blackett in January 2006 at a nightclub where Blackett was working. M.L.T. testified to having both a personal and business relationship with Blackett. The latter was formed when Blackett asked M.L.T. to invest money with him for Blackett to trade in currency using a forex trading account. M.L.T. testified that Blackett was from Barbados, had lived in Montreal and moved to live with M.L.T. and her four children in Brampton in July 2006. It was M.L.T.'s evidence that Blackett worked some evenings as a bouncer, but was supposed to be trading during the day.

[39] M.L.T. testified that in October 2007 she and Blackett moved to a larger residence across the street from M.L.T.'s home. The second residence had a home office on the main level, which M.L.T. described as having a computer with six to eight different computer screens of approximately 15 to 17 inch monitor size that Blackett watched. She assumed he was trading because she saw different charts and graphs. M.L.T. also testified that Blackett had a number of different loan agreements in his home office.

[40] It is M.L.T.'s evidence that she invested a total of approximately $91,000 with Blackett. Blackett told M.L.T. that he could make a certain amount of money based on what she invested with him and that he had had success in the past. M.L.T. also testified that her parents, J.K. and R.K., her brother and his wife, M.K. and C.K,. and her neighbours, D.D. and F.D., also invested with Blackett. M.L.T. recalled that Blackett had told her he had taken a course in trading, but she did not see any certificate.

[41] With respect to her own investments, M.L.T. testified that Blackett told her that she would make 5 per cent per month. Blackett also told M.L.T. that "as long as he had 30 days notice, that I could get my full investment back at the end of the 30 days" (M.L.T. – Transcript of November 5, 2012 at p.25). M.L.T. identified six signed agreements she made with Blackett from August 16, 2007 to March 10, 2008 for a total of $91,150 invested. She understood there were two types of investments, the Monthly Investment and the Compound Investment. One of M.L.T.'s investments for $1,150 was a Compound Investment and the remaining five were Monthly Investments. M.L.T. confirmed the address used by Blackett in the agreements was a private mailbox for the earlier investments and the address of their second residence in the later investments. M.L.T. also confirmed that the email listed in the agreements was Blackett's. M.L.T. testified that Blackett attached to each agreement a document described as a compound interest calculator, which specified, based on the principal invested at a rate of five percent interest, the monthly compounded return an investor could expect to receive (the "**Compound Interest Calculator**").

[42] M.L.T.'s first Blackett Investment of August 16, 2007 was a Monthly Investment of $10,000 for which she expected to receive $500 per month at an interest rate of 5 percent per month over two years. M.L.T. testified that she expected to receive, and did receive, monthly interest payments via direct deposit at a Toronto Dominion Bank ("**TD**") account, but did not keep track of the payments because she trusted that the money would be there. Her second Blackett Investment, signed November 8, 2007, was a Monthly Investment of $10,000 on the same terms.

[43] Two subsequent Blackett Investments of M.L.T., signed in December 2007, were Monthly Investments of $30,000 each for a total of an additional $60,000, which was invested following the sale of her first home. The terms of these agreements were similar to the previous Monthly Investments, except that M.L.T. expected to receive $1,500 per month. The last Monthly Investment made by M.L.T. on March 10, 2008 was $10,000 that she had cashed out of her pension.

[44] M.L.T. testified that she paid Blackett in cash, bank drafts or cheques and that she received payments from Blackett via direct deposit, bank drafts or cash. However, M.L.T. stated that she never received any account statements from Blackett and payments stopped in March 2009 when Blackett claimed he was unable to make payments because investors were calling their loans early. It is M.L.T.'s evidence that Blackett did banking everywhere, including the Canadian Imperial Bank of Commerce ("**CIBC**"), Bank of Nova Scotia ("**BNS**"), Bank of Montreal ("**BMO**") and TD because he said that the banks were "getting on his back about money … too much money being moved around" (M.L.T. – Transcript of November 5, 2012 at p. 47). When Staff showed M.L.T. a list of payments traced from accounts held by Blackett and/or 215 Inc. to M.L.T., she was able to recall some of the payments, but testified that she did not receive the total reflected as $172,400. M.L.T. explained that she was asked by Blackett to make payments on his behalf to other people from money that she received from him because he was having difficulty paying his clients. M.L.T.'s evidence is that she made payments to her parents for Blackett and that she more than likely gave him her password for electronic banking.

[45] In respect of her financial situation between 2007 and 2009, M.L.T. testified that she did not have $1 million or more in financial assets and did not make more than $200,000 per year. M.L.T. stated that Blackett did not ask her these questions, but he knew that she was a single mother trying to make ends meet.

[46] M.L.T. asked Blackett to leave the residence in October 2009 and testified that payments in respect of her Blackett Investments had stopped in March 2009. M.L.T.'s evidence is that she had to sell the second residence in February 2010 because she could not afford the mortgage payments and sold her car in the same year to avoid foreclosure on the home. M.L.T. testified that she had quit her job because Blackett had told her that the money she invested would be substantial enough. M.L.T. claimed personal bankruptcy in early 2011.

[47] Ms. Ramoutar challenged M.L.T's testimony concerning M.L.T.'s purported lack of knowledge about Blackett's business. Under cross-examination, M.L.T. confirmed that she knew Smith as a friend of Blackett. M.L.T. testified that Blackett told her Smith was an investor who knew people that wanted to invest with Blackett. Otherwise, M.L.T. testified that Blackett did not discuss his business with her and that when she did ask him questions she was told she didn't need to know.

[48] Ms. Ramoutar asked M.L.T. about her Blackett Investments. M.L.T. clarified that the funds she invested with Blackett were her own, derived from the sale of her home, her company pension and from working full-time. M.L.T. also testified that the only explanation she received with respect to interest rates was that the Monthly Investment would provide a five percent per month interest while the Compound Investment would provide a ten percent per month compounded interest.

[49] Ms. Ramoutar also challenged M.L.T.'s denial of having received money from Blackett as calculated by Ho. M.L.T. again stated she did not receive a total of $172,400 as calculated by Ho and reiterated that she could have given Blackett a password to her account and he may have been transferring money through it.

[50] Ms. Ramoutar also had M.L.T. identify an auto dealership for which the Panel had seen payments made from accounts held by Blackett and/or 215 Inc. M.L.T. testified that Blackett had bought a BMW for himself and an Audi for her at the auto dealership in question.

[51] The Panel finds that M.L.T.'s testimony in respect of knowing very little about Blackett's business is not reasonably believable. The Panel also finds that M.L.T.'s explanation for not being aware that $172,400 had been deposited into her account from Blackett, while uncorroborated, is plausible, but difficult to accept. The Panel accepts Ho's analysis as an accurate reflection of the flow of funds from Blackett to M.L.T.'s account. The remainder of M.L.T.'s testimony was both credible and relevant.

(b) Investor D.D.

[52] Investor D.D. testified that she met Blackett after he moved in with her neighbour, investor M.L.T., in late 2007. D.D. and her husband, F.D., became friends with Blackett, who told them that he was a currency trader and made good money at it. D.D. testified that she and her husband invested with Blackett after her husband became very interested in Blackett's currency trading. Blackett told D.D. that people were always buying and selling currency, while other commodities were more high risk. Risk was an important concern to D.D. because she did not have the money to invest, but Blackett encouraged D.D. and her husband to invest with him by introducing them to a person who could provide a loan to them to support an investment by them and stated that the interest Blackett paid would offset the cost of the loan. D.D. testified that Blackett told her currency trading had less risk, and showed her statistics and graphs of where currency was moving. D.D. confirmed that Blackett had nine computer screen monitors set up in M.L.T.'s house.

[53] D.D. testified that she and her husband invested with Blackett on four separate occasions between May 10, 2008 and October 4, 2008 for a total of $119,500. D.D. recalled that Blackett provided her with four separate documents entitled "Loan Agreement" and to each there was attached the Compound Interest Calculator. Blackett told D.D. that he had partnered to have the Blackett Investment agreements drawn up and had them reviewed by a lawyer. D.D. corroborated M.L.T.'s testimony identifying: 215 Inc. as Blackett's corporation, the address Blackett used and Blackett's email.

[54] D.D. and F.D.'s first Blackett Investment was made on May 10, 2008, in the amount of $13,500. D.D. testified that in accordance with the terms of that contract she expected to receive $252,169.01 at the end of the five year Compound Investment. Blackett signed this agreement as the "borrower". D.D. cashed stock options, which she had through work, to make their first investment. D.D. testified that she and her husband did not bank with TD, but that Blackett specifically asked them to open an account there because it was easier for him to transfer funds through that account and they did. It was D.D.'s evidence that she and her husband understood that their money was to be traded on the foreign currency market by Blackett and that they would receive interest payments monthly either directly or on a compounding basis.

[55] The second investment that D.D. and F.D. made with Blackett was on August 1, 2008, in the amount of $10,000, as a Monthly Investment for a return of $500 per month for a two year term. Blackett signed this agreement on behalf of 215 Inc., which was the "borrower". The Compound Interest Calculator provided with this investment had handwritten notes, which D.D. confirmed were made by her in tracking dates and method of payments received from Blackett. D.D. and F.D. funded this investment through a line of credit.

[56] The last two Blackett Investments made by D.D. and F.D. were funded through a $100,000 loan arranged by Blackett through an individual named Patrick Demetris ("**Demetris**"), who worked for AGF. Demetris attended D.D.'s home and arranged a $50,000 loan under D.D.'s name and a $50,000 loan for F.D., but co-signed by D.D., as non-registered RSPs to avoid tax consequences. The intent, D.D. and F.D. were told, was to get the loan to purchase mutual funds and cash them out to provide the funds to Blackett. D.D. testified that they were told by Blackett to cash out mutual funds, purchased with the loan, through two different banks to avoid suspicion as to the reason for acquiring the loan in that fashion. The Panel was provided with the documentation prepared by Demetris to apply for D.D. and F.D.'s RSP loan and the statements showing that D.D. and F.D. had repaid the loan. D.D. testified that she had to consolidate the loan with their mortgage by November 30, 2010, to repay the outstanding loan from AGF Trust.

[57] D.D. and F.D.'s third Blackett Investment was made on August 28, 2008, in the amount of $54,000, as a Monthly Investment with a promised return of $2,700 per month for a two year term. D.D. testified that in March 2009 they approached Blackett to ask that he convert this Monthly Investment into a Compound Investment because the monthly payments were being spent rather than saved and Blackett agreed to alter the agreement. D.D. also testified that the third investment was made shortly after the second as a result of Blackett's conversations with F.D. about good debt versus bad debt. The fourth and last investment that D.D. and F.D. made with Blackett was on October 4, 2008, in the amount of $42,000, as a Monthly Investment with a promised return of $2,100 per month for a two year term. The total of the third and fourth investments is $96,000. D.D. testified that the difference between the $100,000 loan from AGF and the $96,000 invested with Blackett was caused by commissions paid to Demetris from the sales of the mutual funds that D.D. and F.D. had purchased with the original loan.

[58] The Panel was provided with copies of bank drafts from D.D. and F.D. that were made out to 215 Inc. D.D. did not have a specific recollection of the draft in the amount of $13,500, but did unequivocally recall providing that amount to Blackett. D.D. testified that the payments, which Blackett made to her and F.D., were in different forms including cheques, cash, and transfers, with some coming from Blackett and others from 215 Inc. It is D.D.'s evidence that she generally had to request interest payments from Blackett and on occasions when he was late, Blackett always had a reason. For instance, Blackett told D.D. that Royal Bank of Canada ("**RBC**") would no longer do business with him because it thought he was laundering money and it wasn't making any money off of him.

[59] Upon being shown Ho's Blackett Funds Analysis, D.D. confirmed that the payments she received from the Blackett Accounts totalled approximately $24,857.50, she received approximately $14,000 in cash and an additional approximately $5,000 in cash that she disbursed to others at Blackett's request. Further, D.D. testified that some months after the payments stopped, Blackett brought her a cheque dated August 31, 2009 for $3,500 from Rezwealth. D.D. identified the copy of that cheque for the record and, although she did not know Rezwealth, D.D. was told by Blackett that Rezwealth was one of his business partners. According to D.D., this was Blackett's way of showing that he was still working on providing the outstanding funds.

[60] D.D. testified that Blackett's explanation for why the payments stopped was that his accounts had been frozen and he was no longer able to gain access. Blackett also told D.D. that he was meeting with his broker in New York and spoke of opening up accounts in his brother's name to trade and get the money circulating. D.D. stated she became most concerned when Blackett provided funds and requested that D.D. and F.D. distribute them to her parents, friends and family. D.D. testified that approximately ten people in her circle invested with Blackett, either because of her husband sharing what he knew or through Blackett directly networking when he was invited to a family event. D.D. also testified that she partnered up with other investors to create documents requesting that Blackett return their funds and providing him with the 30 days notice. D.D. stated that Blackett was served with these documents at the night club where he worked. D.D. and F.D. did not receive the remainder of their principal or their monthly returns back and Blackett did not respond to their request.

[61] With respect to other respondents, D.D. testified that she met Ms. Ramoutar at Blackett's business barbeque in the summer of 2008, but did not otherwise know Ms. Ramoutar. D.D. also recalled meeting Smith and being told by Blackett that he was training Smith to trade currency. D.D. also corroborated M.L.T.'s evidence that Blackett bought a BMW for himself and an Audi for M.L.T.

[62] The Panel was provided with email documentation from December 2009 through January 2010 evidencing F.D.'s account with a forex entity and communications with Blackett in furtherance of allowing Blackett to trade through that account. D.D. testified that Blackett told F.D. that he could teach F.D. how to trade currency. D.D. stated that Blackett brought F.D. a three inch volume and showed F.D. how to open a practice account on a forex platform. D.D testified that F.D. opened a live trading account and funded it, but was not successful. Eventually F.D. gave Blackett his account login and password to trade. D.D. testified that they lost approximately $30,000 through this trading. D.D. provided the Panel with monthly statements, which reflected F.D.'s trading based on recommendations of Blackett.

[63] D.D. testified that at the time she invested, she did not have $1 million in net financial assets, did not own more than $5 million in net assets and had not made more than $200,000 per year in the two years prior.

(c) Investor P.P.

[64] Investor P.P. testified that in 2007, Smith attended at P.P.'s house and presented an investment proposal with two options, the Monthly Investment and the Compound Investment, between P.P. and Blackett and/or 215 Inc. P.P. was told by Smith that Blackett would be trading in currency to generate returns and that Blackett was good at it. On March 8, 2008, Smith provided P.P. and his wife with the Compound Interest Calculator. Smith told P.P. "it's a guaranteed thing" (P.P. – Transcript of October 31, 2012 at pp. 46).

[65] On March 22, 2008, Smith brought P.P. two documents that had been signed by Blackett, each entitled "Loan Agreement" and Smith witnessed P.P.'s signature on the Blackett Investments. P.P.'s Blackett Investments appended the Compound Interest Calculator, named P.P. as lender and included both 215 Inc. and Blackett as borrowers. The first was a Compound Investment for $40,000 and entitled P.P. to receive $737,167.44 representing a five percent monthly compounded interest for a term of five years. The second was a Monthly Investment for $20,000 and it entitled P.P. to $1,000 per month representing a five percent interest per month for a term of two years. P.P. provided his bank account information in the Blackett Investment documents with the expectation that at the end of the term his funds would be deposited to that account. P.P. made two cheques payable to both 215 Inc. and Blackett in the amounts of $40,000 and $20,000, which he obtained from his line of credit. P.P. testified that he never received any principal or returns with respect to the first Blackett Investment and only received approximately seven payments for the monthly returns on the second Blackett Investment.

[66] On October 7, 2008, Smith brought P.P. another Monthly Investment for $20,000, in which only 215 Inc. was listed as the borrower. P.P. testified that he entered into this third agreement with $20,000 that he took from his investment with Investors Group and he may have received two interest payments in cash for this third investment, but no principal. P.P.'s daughters both invested with 215 Inc. and/or Blackett through a series of six Blackett Investment documents entitled "Loan Agreement" which were dated between March 25, 2008 and May 30, 2009 and were provided by Smith, totalling $11,000 invested by N.P. and $36,000 invested by T.P.

[67] Once payments had stopped, P.P. testified that Blackett went to P.P.'s house and told P.P. that if P.P. created an account with FX Solutions, Blackett would trade and make back his money. On November 6, 2009, P.P. wired $10,000 to FX Solutions. FX Solutions gave P.P. a password, which he proceeded to give to Blackett. P.P. testified that he called Blackett within two weeks to inquire about the account and Blackett told him that it was too early, but that things looked good. P.P. called back within the month and Blackett told him things were okay. P.P. testified that at that time he went online to check his account, but the password had been changed. P.P. proceeded to call the company, provided them with identification and was granted a new password to access the account. P.P. testified that when he logged on the account was at zero and the $10,000 was gone.

[68] P.P. testified that neither he nor his wife owned a million dollars in net financial assets at the time he invested. He also testified that neither he nor his wife made more than $200,000 per year at that time and that neither Smith nor Blackett asked any similar questions before he invested.

(d) Investor O.H.

[69] On the first day of the Merits Hearing, investor O.H. appeared as a representative for Ms. Ramoutar for the purpose of assisting her in requesting a further adjournment of the Merits Hearing. At that time, O.H. admitted that he had reviewed Ms. Ramoutar's disclosure materials. He was later called on the eighth day of the Merits Hearing as Ms. Ramoutar's first witness. Ms. Ramoutar also requested that, after he gave evidence, O.H. be allowed to assist her in presenting the remainder of her case. Staff did not object to the procedure of allowing O.H. to sit as a witness and subsequently assist Ms. Ramoutar. In the course of his examination in chief, O.H. noted that he had reviewed Ms. Ramoutar's files. Some of O.H.'s evidence dealt with meetings he had with Ms. Ramoutar and Smith after the Material Time and with discussions that were not related to the conduct alleged. In the circumstances, the Panel gives no weight to O.H.'s observations and testimony which relate to documents and experiences which were not his own and are not relevant to the determination of this matter. O.H. did not provide evidence which assisted the Panel with respect to its analysis of Ms. Ramoutar and Rezwealth or Smith and 177 Inc. However, the Panel did find O.H.'s testimony relating to his personal Blackett Investment to be credible and relevant.

[70] O.H. met Blackett at a nightclub, where Blackett was working as a security guard. Subsequently, Blackett told O.H. that he traded in forex, made a lot of money at it and had a program where he took money from others and provided them with guaranteed returns. After some time, O.H. approached Blackett to invest and made a cheque for $5,000 payable to 215 Inc., which O.H. understood to be Blackett's corporation. O.H. testified that he signed a loan agreement and Blackett told him his money would be used for forex trading, but that O.H. would get his principal and five percent interest compounded monthly at the end of a one year term. O.H. never received any payment from Blackett, and when O.H. asked for repayment in early 2010, he was told that Blackett was working on it.

2. Compelled Testimony of Smith

[71] Ho testified that he conducted compelled interviews of Smith on August 3 and 12, 2010. Hereafter, the Panel shall refer to the admissions made by Smith in his compelled testimony of August 12, 2010. It is Smith's evidence that he personally invested $15,000 with Blackett in September 2006 and a further $40,000 in 2008.

[72] Smith admitted to having referred 48 clients to Blackett and 215 Inc. beginning in late 2006 or early 2007. Smith agreed that he explained to some of the clients he referred: how Blackett's program worked, that Blackett structured the investment program as a loan agreement so that he was obligated to pay back the funds, that Blackett did foreign currency trading and that Blackett managed risk by using leverage and never exposing more than five percent of the money at a time. Smith also admitted to having facilitated the signing of Blackett Investment agreements, delivering cheques and signed agreements to Blackett and, from the end of 2008 until June 2009, transferring monthly payments to investors through the bank account of 177 Inc. In addition, Smith admitted that he received a "finder's fee" of ten percent of each investment for investors he referred to Blackett and that 177 Inc. received a service fee for facilitating monthly payments through its account.

[73] Staff, through Ho, tendered into evidence a client list that Smith provided to Ho, pursuant to an undertaking from Smith's compelled examination, containing the names and contact information of 48 investors whom Smith had referred to Blackett and who had invested a total of approximately $1.2 million.

3. Documentary Evidence of the Blackett Investments

[74] Staff, through Ho, tendered 75 documents, each entitled "Loan Agreement" and signed by Blackett, on behalf of himself and/or 215 Inc., as evidence of the Blackett Investments. The Compound Interest Calculator was attached to the majority of the Blackett Investment documents. Ho produced communications between Blackett and certain investors, account statements relating to forex trading accounts and copies of bank drafts or wire transfers to Blackett or 215 Inc. drawn by the investors in payment for the Blackett Investments. In the case of investor E.F., each of the four Blackett Investment agreements she entered into had a handwritten notation expressly stating "Note: Monies obtained are used for the sole purpose of currency trading in Forex" (Exhibit 7, Tabs 41-44). Ho testified that he obtained the documents from various investors, Smith and Ms. Ramoutar, over the course of his investigation and used them to identify investors who provided funds to Blackett for the purpose of his Source and Application of Funds Analysis. As stated above, M.L.T. confirmed the address used by Blackett in the earlier investments was a private mailbox and the address in later investments was that of their second residence. M.L.T. also confirmed that the email listed was Blackett's.

[75] Investor agreements provided to Ho by Smith match Smith's client list, which confirms the names of investors that Smith had referred to Blackett. Documentary evidence also supported the fact that investor A.L. and the principals of New Found Freedom Financial ("**NFF**") pooled investor funds to invest with Blackett.

[76] Ho testified that one account statement with Interbank FX, LLC, which showed a series of trades made on March 18, 2008 but with other account information blacked-out, was provided by Blackett to each of Ms. Ramoutar, investor O.H. and the principals of NFF prior to their investment with Blackett in an effort to demonstrate that Blackett was a very good forex trader who could turn $2,000 into $100,000 in a short period of time. There was no indication on that statement of who held or traded in the account. Ho testified that he was told by Ms. Ramoutar that Blackett also provided her with a second account statement titled "Combined Account Statement" from Forex Capital Markets, LLC ("**FXCM**") after Blackett had stopped making payments to Rezwealth to provide some assurance that he had funds to repay the money. The FXCM Combined Account Statement listed Blackett as the User and contained an ending balance of approximately $2 million on July 15, 2009, but did not have a trade account number. Ho also provided a similar FXCM Combined Account Statement for September 15-16, 2009, which Ho testified had been provided by Blackett to investor A.L. and the principals of NFF as assurance that Blackett had the ability to repay them after payments stopped in 2009. Ho testified that the principals of NFF provided him with a nearly identical FXCM Combined Account Statement under the name of a different user, with an identical balance as that provided by Blackett and which had been created by the different user using a practice account on the FXCM website.

[77] Ho identified a separate trading account document in the name of Mr. Ramoutar. Ho's evidence was that Ms. Ramoutar told him she set up a forex trading account in July 2009 at the suggestion of Blackett, deposited funds into that account in Mr. Ramoutar's name, gave Blackett the password to trade and subsequently lost the funds. Ho testified that Blackett had similar arrangements with investors P.P. and A.L. in which funds were deposited into accounts and were lost by Blackett through trading.

[78] An agreement between Blackett and Rezwealth dated December 16, 2009 was also tendered into evidence by Ho, which provides that Blackett would repay Rezwealth $3 million calculated as principal plus interest and is signed by Blackett, on his own behalf, and Ms. Ramoutar, as president of Rezwealth. An agreement with similar intent was entered into in December 2009 between Blackett and investor S. B. in which Blackett undertook to pay loan monies outstanding with interest in the amount of $36,000.

E. Conduct of the Rezwealth Respondents

[79] Ho testified, and the evidence supports, that Rezwealth offered investors: (a) in its earliest agreement, monthly and annual investment return options; (b) in later agreements, investment products identified as three types of accounts, including (i) guaranteed monthly or yearly returns, (ii) floating interest monthly or yearly returns, and (iii) risky investment with possibility of high returns but all funds put at risk; and (c) in the latter agreements, the options of "Plan A Guaranteed" and "Plan B Not Guaranteed" (collectively, the "**Rezwealth Investments(s)**"). Ho testified that he interviewed and obtained documentation from Ms. Ramoutar with respect to the Rezwealth Investments. Ho also testified that there were six different forms used for the Rezwealth Investments, including three versions of a "Participation Agreement", one form entitled "Subscription Form for Participating Debenture", another entitled "Promissory Note" and finally an "Unsecured Debenture" form. The earliest Rezwealth Investment for which evidence was tendered is dated October 29, 2007 and the latest is dated December 21, 2009. Staff, through Ho, tendered 56 agreements as evidence of the Rezwealth Investments.

[80] The earliest Rezwealth Investment expressly states "This Agreement is for the purpose of participating collectively in the pooling of funds into Managed Foreign Currency Trading Account and sharing the profits and loss of this initiative" (Exhibit 8, Tab 49). Later agreements also specify that while Rezwealth is not a currency trader, it is managing the pooling of members funds to participate in the "income-generating service" through "highly-experienced traders" (Exhibit 8, Tabs 45-47; Exhibit 9, Tab 1). As Ho testified, later agreements entitled "Promissory Note" do not contain terms about the use of investor funds, do not describe the role of Rezwealth in the arrangement and do not specify terms of referral of investors.

1. Investor Testimonies

(a) Investor J.R.

[81] Investor J.R. testified that she was introduced to Rezwealth by Mr. Ramoutar, a friend, in the summer of 2008. She recalled asking Mr. Ramoutar where he worked and that he told J.R. about Rezwealth, indicating that it did mortgages and investments. J.R. testified that Mr. Ramoutar met with her to discuss the investments offered and described three types: guaranteed, floating and risky. Mr. Ramoutar explained the types of investments to her, including that guaranteed meant that principal invested and interest was guaranteed, the floating interest could vary and that the risky option could result in losing some money. J.R. testified that Mr. Ramoutar told her the guaranteed investment had interest between six and 36 percent and risky investment could have interest up to 60 percent. Mr. Ramoutar also told J.R. that the risky investment was linked to forex investing, which he explained to be currency trading.

[82] J.R. recalled Mr. Ramoutar explaining how one could leverage credit. J.R. testified that Mr. Ramoutar stated a person could utilize the limit on his or her credit card to invest and the interest made on the investment would cover monthly payment of interest from the credit card. J.R. identified a Rezwealth pamphlet and confirmed that under the heading "Investments" a reference to "the power of leveraging" would correspond to what Mr. Ramoutar explained to her about the use of credit cards or personal lines of credit for the purpose of investing (Exhibit 29, Tab 6). The pamphlet also described what J.R. identified as the guaranteed or "secured" investment and the risky or "aggressive" investment.

[83] J.R. attended Rezwealth's offices for information sessions sporadically throughout the summer of 2008. She testified that on average 15 people attended these weekly sessions and that Mr. Ramoutar, Ms. Ramoutar and Christopher Ramoutar, Ms. Ramoutar's other son ("**Chris Ramoutar**"), among others, gave presentations using charts and graphs. J.R. also testified that in the latter part of 2008 and early 2009, Rezwealth held information sessions on forex, which she also attended. J.R. stated that the forex presentations explained forex and what it did for an investment.

[84] In the fall of 2008, J.R. made her first Rezwealth Investment with Rezwealth placing $5,000 in a guaranteed account and $5,000 in a floating account. The source of those funds was J.R.'s savings. In early 2009, J.R. recalled investing another $15,000 and in October 2009 a further $10,000. J.R. was referred to Ho's accounting record which corroborated her testimony. J.R. testified that she made the latter two investments because she felt comfortable after obtaining the interest return on her first investments. J.R. also testified that each time she went to Rezwealth's offices to invest she met with Mr. Ramoutar and that he signed the investment documents on behalf of Rezwealth. J.R. identified documents which recorded her investments but confirmed that they were not the original agreements she had signed. J.R. testified that Mr. Ramoutar contacted her to request that J.R. sign new forms because Rezwealth had recently become registered or received a certification which required updated paperwork to be completed, resulting in the original documents being shredded. J.R. posited that the new forms entitled "Subscription Form for Participating Debenture" and dated September 11, 2008, recorded aggregate consideration of $20,000 likely because at the time she signed the updated documents she had already invested more.

[85] J.R. testified that the second written agreement, which was entered into evidence through her, was a guaranteed plan. When directed to language in that agreement which stated that all her money could be lost, J.R. testified that it was inconsistent with her understanding that her principal and interest was guaranteed. J.R. also identified copies of cheques, which she had made payable to Rezwealth and which were described in the memo line as investments. Further, Rezwealth Investment documents contained discrepancies, which J.R. testified could be explained by the fact that she had reallocated funds between

various types of accounts at certain points in time. J.R. stated she began with guaranteed and floating plans and by the time she had invested a total amount of $35,000 it was allocated as $25,000 in the risky plan and $10,000 in the guaranteed plan. J.R. testified that Chris Ramoutar signed her investment forms as a witness.

[86] Rezwealth made monthly payments to J.R. She testified to receiving the payments in the form of cheques sent by mail or received in person at Rezwealth's office. J.R. also identified letters received from Rezwealth, which accompanied the payments and recorded the interest in the account for each month. When monthly payments stopped, J.R. called Mr. Ramoutar and he told her everything was frozen, but prior to that, no one at Rezwealth had communicated to her any problems with the investment or the trader. J.R. testified that earlier disclosure of such problems would have affected her decision to invest. J.R. also recalled receiving a letter from Rezwealth dated January 10, 2010, which she considered to be an update informing her that a legal matter had begun. J.R. called Mr. Ramoutar, who told her that it would get resolved and then everyone would get their money back. J.R. has not received her principal back.

[87] At the time she invested, J.R. testified, she did not have $1 million in net financial assets, did not own more than $5 million in net assets and had not made more than $200,000 per year in the two years prior.

[88] Under cross-examination by Ms. Ramoutar, J.R. recalled that Rezwealth's information session covered various topics including taxes, credit restoration and insurance planning. J.R. also testified that Mr. Ramoutar did not aggressively solicit her to put money into Rezwealth. J.R. confirmed that her understanding in early 2010 was that the individual handling forex either did not allocate money properly, or information did not pass properly and the Commission became involved to resolve it and make the person accountable. J.R. also acknowledged that she was on a committee of Rezwealth, which was intended to work on how to inform people about the Rezwealth sessions and the company as a whole.

(b) Investor C.G.

[89] Investor C.G. was a childhood friend of Mr. Ramoutar's and knew Ms. Ramoutar as his baseball coach. His understanding was that either Mr. Ramoutar or Ms. Ramoutar owned Rezwealth and that Ms. Ramoutar was president, Mr. Ramoutar was also high in the chain of command and Chris Ramoutar was the treasurer. C.G. identified two other friends who worked for Rezwealth trying to gather investors for the company. One of those two friends, R.H., asked if C.G. was interested in investing. C.G. knew at least three friends who had invested as well. Rezwealth's employee, R.H., discussed the investment in terms of forex trading, guaranteed 3 percent and assured C.G. that there was no chance of C.G. losing his money. C.G. was persuaded by R.H.'s observation that many other friends had invested and gotten their cheques. C.G. spoke to those friends who were investors and they confirmed that they had received payments.

[90] On July 10, 2009, C.G. invested $3,000 with Rezwealth. C.G. understood his money would be used for something to do with forex trading and that he would receive 3 percent interest per month guaranteed. C.G. testified that he was told he would get his principal back whenever he pulled his money out. C.G. also testified that he was never told about any problems with the investment and, if he had been aware of any, it would have affected his decision to invest. C.G. went to Rezwealth's office to fill out the paperwork and sign a form. He was told by R.H. to read the form. When C.G. inquired about the text which stated he could lose all his money, R.H. explained that it was still a guaranteed investment, but legally C.G. had to sign the form to purchase the investment.

[91] C.G. received monthly cheques, in the mail or directly from R.H., as payment from Rezwealth. Like other investors, C.G. also received letters from Rezwealth, which accompanied the cheques. C.G. understood Rezwealth had invested his money and he was receiving the return. The Panel was provided with copies of cheque stubs which indicate that the cheques were for "investment income" (Exhibit 30, Tab 4). C.G. also identified a letter, dated November 13, 2009, which he received at some later date, describing challenges Rezwealth was having with the Commission and a forex trader. C.G. testified that he discussed the issues described in the letter with Mr. Ramoutar and R.H. and was told that it was just a delay, but that C.G. would get his money eventually.

[92] C.G. never received his principal back. At the time that he invested, C.G. testified, he did not have $1 million in net financial assets, did not own more than $5 million in net assets and had not made more than $200,000 per year in the two years prior. No one at Rezwealth asked him these questions.

(c) Investor S.L.

[93] Investor S.L. testified that she became familiar with Rezwealth through a friend who had recommended it for tax consulting. S.L. called Ms. Ramoutar, whom she believed to be the owner of Rezwealth, around July 2009. S.L. testified that she discussed investments offered by Ms. Ramoutar and specifically recalled telling Ms. Ramoutar about her situation, including that she felt she was getting up in age, had previously lost money and did not want the exposure of losing more. S.L. testified that she was offered a return of two percent per month and that Ms. Ramoutar told S.L. the money invested would be placed into several baskets so that if one failed, S.L. would not lose all her money.

[94] In their discussions, Ms. Ramoutar suggested to S.L. that S.L. had equity in her condo, which was doing nothing for her, but S.L. could use it to make income. S.L. told Ms. Ramoutar she was concerned with losing her condo and Ms. Ramoutar assured S.L. she would not lose it. As a result of their discussion, S.L. contacted BMO, who conducted an assessment and approved a line of credit for S.L. A couple of weeks later, in July 2009, S.L. arranged to meet Ms. Ramoutar at a mall and, after discussing her situation, S.L. provided Ms. Ramoutar with a cheque for $50,000 from her line of credit. S.L. testified that she had written "investment" in the memo line to her cheque because she understood that she was purchasing an investment from Rezwealth. A document described as a "participation agreement" and dated July 17, 2009 was tendered into evidence through S.L., which was signed by Ms. Ramoutar and corroborated S.L.'s evidence of the amount invested and rate of return. S.L. testified that she told Ms. Ramoutar that she had a low risk tolerance and if anything were to happen she would want Ms. Ramoutar to pull her out of the investment immediately.

[95] After her initial investment, S.L. was contacted by a Rezwealth representative and asked to sign new documents. S.L. was told that Ms. Ramoutar had encountered some problems she wished to rectify and, as an investor, doing the right thing would mean signing new papers. S.L. attended Rezwealth's office to execute the new paperwork. S.L. identified a document entitled "Promissory Note" with Rezwealth letterhead which was backdated and signed by her and Chris Ramoutar at some time subsequent to the initial investment. S.L. testified that although no one explained the document terms, or what an accredited investor was, S.L. nevertheless signed the document indicating she was an accredited investor. When S.L. was directed to a part of the document which indicated she could lose all her money, she testified that that was not what she understood at the time she invested.

[96] S.L. invested with Rezwealth on two further occasions because she felt comfortable with the first investment after having received monthly interest payments. Each time she called Ms. Ramoutar, went to Rezwealth's office, executed the necessary documentation and provided a cheque which she understood to be an investment. S.L.'s second Rezwealth Investment was made on September 10, 2009, in the amount of $10,000, from her line of credit. S.L.'s third and final Rezwealth Investment was made on October 6, 2009, in the amount of $7,000, from her savings.

[97] S.L. testified that she received monthly payments by cheque in the mail until the end of 2009. When payments stopped, S.L. went to Rezwealth's office and met with Ms. Ramoutar who explained the problem Rezwealth had with a trader and stated that she would continue to give S.L. payments indefinitely. S.L. received two cash payments from Ms. Ramoutar totalling approximately $1,350. S.L. stated that when she attended Rezwealth's office to receive her third payment, Mr. Ramoutar told her they were not making any more payouts. S.L. has not received any of her investment back since the second cash payment. S.L. testified that after she invested, Ms. Ramoutar mentioned she was having problems with one of the traders. S.L. stated that had she known about the problems before, she would not have invested.

[98] At the time she invested, S.L. testified, she did not have $1 million in net financial assets, did not own more than $5 million in net assets including property and had not made more than $200,000 per year in the two years prior. S.L. confirmed that no one at Rezwealth asked her those questions.

[99] Under cross-examination by Ms. Ramoutar, S.L. admitted she and Ms. Ramoutar discussed forex and trading generally and that S.L. knew forex was a risky product. S.L. reiterated in her cross-examination that she had told Ms. Ramoutar about her risk aversion, age, previous loss of money and that Ms. Ramoutar had reassured her that her funds would be placed in to several baskets so that if one failed they would not all fail. S.L. also testified that Ms. Ramoutar told her at a Christmas party that S.L. would be one of the first five to get her money back. S.L. believed that if Ms. Ramoutar had the money, she would get her money back.

(d) Investor M.L.

[100] Investor M.L. testified that she was introduced to Rezwealth by Tiffin, her financial advisor, who presented Rezwealth as an option for investment. In October 2008, prior to investing, M.L. met with Ms. Ramoutar, whom she understood was the owner of Rezwealth. It is M.L.'s evidence that Tiffin drove her to Rezwealth's office, where Ms. Ramoutar told M.L. that 10 percent of her investment would go into forex trading, which was very volatile and risky, while the remaining 90 percent would stay with Rezwealth for short-term loans that normally generated a very high return. Further, M.L. recalled being told by Tiffin, and subsequently Ms. Ramoutar, that the forex investment would have a stop loss feature which would limit risk.

[101] Ms. Ramoutar also told M.L. that she would receive a guaranteed 2 percent per month on her investment and that she could pull her money out at any time with 30 days notice. M.L. testified that Ms. Ramoutar told her the overall investment was very safe. Subsequent to their discussion, M.L. decided to take $100,000, which she had invested elsewhere, and wrote a cheque to Rezwealth for that amount. A copy of the cheque, dated November 3, 2008, was tendered into evidence.

[102] M.L. recalled that at the time she made her Rezwealth Investment, she signed a two-page, very basic contract in Ms. Ramoutar's office and was assured by Ms. Ramoutar at that time that it was very safe. M.L. testified that sometime prior to August 10, 2009 she was contacted by Mr. Ramoutar, who told her that she needed to execute a new contract because regulation was tightening up and upon their lawyer's review of the old contract, it was felt that a new form was more appropriate

and more in compliance with the regulation. As a result, M.L. stated she tore up her shorter agreement because she thought that the new one superseded it.

[103] On August 10, 2009, M.L. testified, she signed a new agreement with Rezwealth at a meeting with Mr. Ramoutar in Rezwealth's office. The new agreement was tendered into evidence and reviewed closely with M.L. M.L. explained that perhaps the agreement had been signed by Chris Ramoutar after she signed it because he was not present when Mr. Ramoutar met with her to explain it. M.L.'s recollection was that Mr. Ramoutar took her through the agreement page by page to explain all the clauses, but believed that Mr. Ramoutar ticked off the "accredited investor" box on one form. When Staff asked M.L. various questions about her financial position, which could have placed her within the criteria for an accredited investor, M.L. testified that she did not meet any of the mentioned requirements. M.L. could not recall if she was asked those questions by a representative of Rezwealth. M.L.'s responses to questions about whether Mr. Ramoutar explained certain features of the forms attached to the Rezwealth investment contract frequently conveyed a degree of uncertainty. For instance, at one point M.L. stated she assumed Mr. Ramoutar had explained a risk acknowledgement form.

[104] M.L. provided the Panel with copies of cover letters from Rezwealth which had accompanied the monthly payments for her Rezwealth Investment. M.L. testified that her first payment was dated December 15, 2008 and her last was dated December 10, 2009. The cover letters were on Rezwealth letterhead and all had similar content, stating that enclosed was M.L.'s 2 percent interest earned on her investment for the immediately preceding month. One letter also included a statement that in addition to the monthly payment on her investment M.L. was receiving a commission cheque. M.L. testified that she referred her sister and a friend, through Tiffin, to invest in Rezwealth. As a result, she received 0.5 percent of the investment made by the persons she referred.

[105] After payments stopped, M.L. called Rezwealth and was told that its account had been frozen due to the Commission's investigation. M.L. testified that no one at Rezwealth alerted her to any problems with the investment before then. M.L. later received a letter from Rezwealth, dated October 27, 2010, which indicated that Rezwealth had been asked to cease trading by the Commission and that an attempt to reimburse clients was going to be made by restarting "regular sessions to try and infuse some capital into the business" (Exhibit 27, Tab 4).

(e) Investor E.B.

[106] Investor E.B. was introduced to Tiffin in 2006 when he was invited to Tiffin's seminar. E.B. testified that he met with Tiffin, who became his financial advisor, and invested with him in early 2007. E.B. described his initial $100,000 investment as an insurance policy from which he borrowed $80,000 to invest in stocks, mainly mutual funds. It was E.B.'s understanding that Tiffin bought the mutual funds, controlled when they were traded and would move the money to protect it, if it was not performing. E.B. testified that he lost over $60,000 of that investment and when the investment failed to perform, Tiffin mentioned Rezwealth. E.B. recalled that Tiffin described the Rezwealth Investment as one that would pay two percent per month.

[107] E.B. testified that, after having discussed the Rezwealth Investment with Tiffin, he decided to invest in Rezwealth and Tiffin took E.B. to Ms. Ramoutar's home. E.B. testified that Tiffin gave him a document entitled "Rezwealth Participation Agreement" about a week before going to see Ms. Ramoutar. E.B. recalled that once at Ms. Ramoutar's home, Tiffin dominated the conversation and explained the forex investment in detail, guaranteeing 100 percent of the principal and two percent per month, plus an additional two percent per month out of Tiffin's commission because he felt badly for having lost E.B.'s money. E.B. testified that the decision to offer a total of four percent per month was Tiffin's and Ms. Ramoutar did not partake in that conversation. E.B. also testified that Ms. Ramoutar asked if he understood the investment or had any further questions, but E.B. stated Tiffin had explained it all and he was comfortable going ahead. Under cross-examination, E.B. was directed to a copy of his cheque to Rezwealth dated June 29, 2009 in the amount of $88,000 and confirmed that it was the amount he initially invested with Rezwealth. E.B. understood that the money he invested would be used for credit counselling, re-mortgaging and some forex trading. Further, E.B. recalled receiving monthly payments from Rezwealth until the funds were frozen by the Commission.

[108] E.B.'s wife also invested in Rezwealth. E.B. testified that he was encouraged to refer people to Tiffin and was offered remuneration in the amount of one percent. E.B. then introduced his wife to Tiffin, cashed out a CI investment of approximately $20,000 and met with Mr. Ramoutar to invest it in Rezwealth. E.B. recalled that his wife invested approximately $25,000 with Rezwealth for a rate of return of three percent, as determined by Tiffin. Under cross-examination, E.B. was directed to two Rezwealth subscription forms, dated December 4, 2009, in the amount of $12,000 and $13,000 respectively and confirmed that the dates were consistent with his recollection of his wife's investments. E.B. testified that Mr. Ramoutar did the paperwork and later recalled that Mr. Ramoutar did explain the Rezwealth Investment forms to E.B., including the variable rate of interest in one document. However, E.B. testified that Mr. Ramoutar did not tell E.B. about any problems with the Rezwealth Investment or the trader prior to when E.B.'s wife made her investment.

[109] E.B. testified that he had also invested approximately $80,000 of his mother's money with Tiffin and by February 2009 the value of the investment was approximately $40,000. On February 2, 2009, Tiffin emailed E.B. to offer the potential of

investing what was left of his mother's funds in Rezwealth. E.B. recalled that as a result of that email, he invested his mother's money in Rezwealth for a return of four percent per month, as determined by Tiffin. E.B. recalled that Tiffin never mentioned having to consult with Ms. Ramoutar before accepting E.B.'s monies or making promises or guarantees.

[110] It was E.B.'s evidence that he recalled from an email that the trader's name was Blackett and that Tiffin described Blackett as a very good trader. E.B. also recalled that in one email Tiffin stated he had spent the day watching the trading. E.B. further testified that Tiffin took credit for tweaking the forex program by taking out a large insurance policy on Ms. Ramoutar and putting into place stop-gap measures, limiting trading to 10 percent of the available funds. On the basis of that tweaking, it appeared to E.B. that Tiffin was in control of the Rezwealth Investments. E.B.'s evidence with respect to Tiffin having watched trading and the limitation of trading only up to 10 percent of funds was corroborated by an email tendered into evidence, which had been distributed by Tiffin to investor B.H. and subsequently forwarded to E.B.

[111] At the time he invested, E.B. testified, he did not have $1 million in net financial assets, did not own more than $5 million in net assets, had not made more than $200,000 per year in the two years prior and together with his wife had not made more than $300,000 per year in the two years prior.

[112] E.B. recalled that Tiffin admitted to receiving a five percent commission on E.B.'s Rezwealth Investment. It is E.B.'s testimony that he was led to believe, by Tiffin, that Tiffin was a major player in Rezwealth, a partner, and that Tiffin seemed to be one of the people making the decisions and running the company.

(f) Investor B.H.

[113] Investor B.H. testified that he met Tiffin around 2007 after investor E.B. recommended that B.H. attend one of Tiffin's seminars. B.H. recalled that the idea of Tiffin's seminars was to have an insurance policy and take monies from that policy to invest in the market. Shortly after the first seminar, B.H. introduced his wife to Tiffin and she took out an insurance policy through Tiffin. B.H. testified that his wife then withdrew approximately $35,000 from the policy and invested it with Tiffin. B.H. also testified that the invested funds performed terribly and resulted in a loss of approximately 60 percent in eight months.

[114] B.H. worked as an independent life insurance agent through Tiffin's office. He testified that he rescinded his licence to sell because of Tiffin and because the two did not share ethics in the sense that B.H. believed Tiffin oversold to people who could not afford it. B.H. was introduced to Rezwealth through Tiffin. He was told by Tiffin that the program offered by Rezwealth was "a guaranteed, 100-percent ironclad, money-in-the-bank investment portfolio" (B.H. – Transcript of December 5, 2012 at p. 146). B.H. understood that Rezwealth was running a program and that Tiffin got together with Rezwealth to tweak or modify the program and acted as a commissioned salesperson for Rezwealth to offer the investment.

[115] B.H. met Ms. Ramoutar on several occasions before he and his wife made investments with Rezwealth. B.H. recalled that he met Ms. Ramoutar at E.B.'s house when she was there to discuss a tax shelter, then at Tiffin's office a year later and subsequently at a seminar. B.H. testified that this was part of the reason he and his wife thought they should invest, since Ms. Ramoutar was an arm's length party to Tiffin. B.H. also testified that he was reassured the investment was secure through Tiffin's insistence that he would have a $5 million insurance policy placed on Ms. Ramoutar, naming investors as beneficiaries if anything were to go wrong.

[116] B.H. recalled that his wife had taken an approximately $300,000 buyout from her pension and Tiffin, being their financial advisor, recommended that they place $120,000 with Rezwealth and that the remaining "locked funds" be invested into an annuity for B.H.'s wife. Tiffin took B.H. and his wife to Ms. Ramoutar's home and they provided Ms. Ramoutar with a cheque for $120,000, dated May 25, 2009. B.H. testified that by the time he and his wife provided Ms. Ramoutar with a cheque they were already sold on the idea because of Tiffin. B.H. recalled filling in the forms for his wife's investment, entitled "Participation Agreement", in Ms. Ramoutar's home, but stated that Tiffin provided the forms and Tiffin determined the monthly return.

[117] B.H. also invested with Rezwealth through his company on two occasions. Under cross-examination, B.H. was directed to two agreements, which were consistent with his recollection that his company invested $5,000 with Rezwealth on May 25, 2009 and another $5,000 on August 31, 2009. B.H. testified that he made the additional investment in August because the payments were coming in as specified and there didn't seem to be any issues.

[118] B.H. testified that he was repeatedly assured by Tiffin that the Rezwealth Investment was 100 percent secure, but that Ms. Ramoutar was not part of those conversations. However, B.H. also understood that Ms. Ramoutar was the directing mind of Rezwealth.

[119] B.H. was contacted via email by Mr. Ramoutar at some time after his wife and his company had invested with Rezwealth to complete and sign new paperwork. B.H. was told that the documents needed to be filled out in order for Rezwealth to be in compliance with requirements and to secure his funds. B.H. recalled meeting with Mr. Ramoutar at Rezwealth's office for the purpose of filling out the new paperwork, which was backdated to the date of the original investment, and providing Mr.

Ramoutar with a cheque for his last investment. B.H. testified that his wife checked a paragraph indicating she was an accredited investor because he understood they qualified since Tiffin was a registered financial advisor.

[120] B.H. testified that at the time he invested, he did not have $1 million in net financial assets, did not own more than $5 million in net assets, had not made more than $200,000 per year in the two years prior and together with his wife had not made more than $300,000 per year in the two years prior. B.H. also testified that no one at Rezwealth asked him these questions prior to the investments being made. B.H. also testified that payments stopped in early 2010 and the only explanation that he received was from Tiffin who indicated that the accounts had been frozen. B.H. has not received any further payment since and has not received his principal back.

2. Additional Witnesses Called and Evidence Tendered by Ms. Ramoutar

(a) Blackett Investor O.H.

[121] Investor O.H. invested $5,000 with Blackett. O.H. testified that in February or March 2010, when he was attempting to track Blackett, he came across a listing on Google related to the Commission and Rezwealth. O.H. proceeded to contact Rezwealth to determine what was happening and where Blackett might be. According to O.H., this is how he came to meet Ms. Ramoutar, who requested that O.H. assist her in locating Blackett and later that O.H. assist with Ms. Ramoutar's defence. O.H. testified that he met Smith through Ms. Ramoutar in the summer of 2010 and Tiffin through Ms. Ramoutar in the summer of 2011.

[122] As noted above, O.H. reviewed Ms. Ramoutar's disclosure documents before testifying, some of O.H.'s evidence dealt with meetings he had with Smith and Tiffin after the Material Time and with discussions that were not related to the conduct alleged. In the circumstances, the Panel gives no weight to O.H.'s observations and testimony which relate to documents and experiences which were not his own and are not relevant to the determination of this matter.

[123] O.H. testified that he knew nothing of the business of Ms. Ramoutar or Rezwealth prior to 2010. Much of O.H.'s testimony provided observations of Tiffin's character and Tiffin's aggressive nature as a person with a military background, who was capable of physical intimidation. The Panel finds that O.H. did not provide evidence which assisted the Panel with its analysis of the Rezwealth Respondents' conduct during the Material Time

(b) Witness J.K.

[124] Witness J.K. met Ms. Ramoutar at a networking function in 2006. J.K. testified that he told Ms. Ramoutar about Tiffin's presentations and was present the first time she attended a session. J.K. confirmed that he wanted Ms. Ramoutar's opinion on Tiffin's presentations and understood she worked in the financial business and had a company that offered tax services, credit consolidation and mortgages. J.K. testified that he had also met Tiffin in 2006 and attended his seminars, which dealt with demographics and how an aging population should make people re-evaluate how they use their money. J.K. testified that Tiffin was a demographic expert and financial advisor who was guaranteeing higher rates of return in various investment portfolios that Tiffin referred to as "suitcases".

[125] J.K. recalled that at his seminars, Tiffin would distribute a portfolio to build his credentials, which contained information on what Tiffin did, photocopies of newspaper articles he wrote and charts. J.K. testified that, in 2006-2007, at the end of his presentations, Tiffin would tell people that if they gave him $100,000, within five years he could turn it into one million. J.K stated that Tiffin would then want people to fill out a form so that he could follow up on an individual basis and encouraged people to refer others to him.

[126] J.K understood that Tiffin had been in the insurance industry for at least a decade prior and testified that Tiffin did hold himself out to be a financial advisor. J.K. testified that he had invited a number of friends to Tiffin's seminar and lost friends who invested with Tiffin, were misled and lost a lot of money. J.K. recalled that Tiffin identified day trading as one of his "suitcases". J.K. also testified that Tiffin's seminars changed around middle to fall of 2008 when Tiffin started to discuss forex as one of his "suitcases" and coined the phrase "forex with a twist". J.K. stated that Tiffin was always bragging about giving people a 24 percent return on their money and introduced Rezwealth as a strategic alliance partner. It is J.K.'s evidence that Tiffin always maintained that he had control over investing people's money, that he would move it around and that he would always invest clients' money in what he invested in.

[127] J.K. recalled that Tiffin encouraged people to cash out their RSPs to invest in his portfolios, including forex, and that Tiffin told people to get rid of their trophy homes to invest with him. J.K. stopped attending Tiffin's presentations at the end of 2008.

[128] J.K. testified that he also attended Ms. Ramoutar's seminars, and recalled the topics to include: tax services, referrals, credit consolidation and mortgages. J.K. confirmed that he met Mr. Ramoutar as well. J.K. also testified that Ms. Ramoutar never solicited him, nor did he see her solicit anyone else, to the forex program from 2006 through to 2009.

[129] Under cross-examination by Staff, J.K. testified that forex was one of Tiffin's "suitcases" and that it was offered through Tiffin, as opposed to Rezwealth. J.K. also stated that he was never told who did the actual trading and confirmed that he never invested with Rezwealth, Blackett or Tiffin.

(c) Ms. Ramoutar's Testimony at the Hearing

[130] Ms. Ramoutar testified on her own behalf and as a representative of Rezwealth. Ms. Ramoutar identified her children and a former friend as directors and/or officers in Rezwealth's corporate records. Ms. Ramoutar testified that Rezwealth was primarily a triage service for licenced professionals, which referred prospective clients to the best-suited professional and in return the professional would pay a fee to Rezwealth for that referral. Her evidence was that Rezwealth supported insurance agents, mutual funds agents, mortgage brokers and credit counsellors.

[131] It is Ms. Ramoutar's testimony that Smith introduced her to Blackett and around March 2008 she placed $50,000 of her own funds with Blackett in return for five percent per month or payments of approximately $2,500 per month. Ms. Ramoutar testified that someone asked her to oversee for family and friends who put money in with Blackett as well and let them know if anything went wrong so that they could all "bail" together (Ms. Ramoutar – Transcript of December 11, 2012 at p. 34-35).

[132] Ms. Ramoutar provided the Panel with a spreadsheet listing Rezwealth investor fund deposits in chronological order and organized by the person who referred the investor, including Ms. Ramoutar, Mr. Ramoutar and Tiffin, among others. The source of the information in her spreadsheet was Ho's accounting. Ms. Ramoutar testified that from April 2008 to September 2008 the eight individuals who loaned money to Rezwealth were all family and friends. Ms. Ramoutar specifically indicated that that was the period before Tiffin became involved with Rezwealth. Ms. Ramoutar's evidence was that before Tiffin's involvement, Rezwealth had approximately $200,000 or less that had been loaned to it by family and friends. Ms. Ramoutar testified that the money received from investors was loaned from Rezwealth to Blackett.

[133] Tiffin was introduced to Ms. Ramoutar in 2006 when she went to some of his seminars. Ms. Ramoutar testified that in August 2008, Tiffin approached her to ask what she did and Ms. Ramoutar explained to him that Rezwealth worked with licenced individuals to help people restore their credit and deal with taxes. Ms. Ramoutar stated that Tiffin inquired further, so she mentioned that she had placed $50,000 with Blackett for forex trading and Tiffin immediately wanted to meet Blackett. Ms. Ramoutar recalled going with Tiffin to Blackett's home in August 2008 where Blackett showed them his licence and provided Tiffin and Ms. Ramoutar with a photocopy of trading records purporting to demonstrate how Blackett turned $2,000 into $105,000 in one day. Ms. Ramoutar testified that, within a few days of meeting Blackett, Tiffin was at Ms. Ramoutar's door with his own binder of day trading activities to discuss Blackett's percentage of wins versus percentage of losses and to proclaim how brilliant Blackett was. Ms. Ramoutar stated that it was at this meeting in her house when Tiffin stated he wanted to use Blackett as a vehicle to put his clients' funds and went on to discuss how he could structure it.

[134] As noted above, Ms. Ramoutar testified that Rezwealth was a referral company to direct people to licenced individuals. By September 2008, Ms. Ramoutar testified she met Mr. M., who, she was told, was Tiffin's lawyer and by October 1, 2008 Tiffin arrived with the first cheque from investor M.A. in the amount of $200,000. Ms. Ramoutar also testified that with respect to Tiffin's clients, Tiffin was their financial advisor, he did all the questioning and he advised them of where to put their money. An email was identified by Ms. Ramoutar as having been sent from Tiffin to his clients, including herself, in November 2008, and which states "earn 24% guaranteed and 100% guarantee on your principle" (Exhibit 47). Ms. Ramoutar testified that upon receipt of the email she had an argument with Tiffin and told him that he could not guarantee people anything.

[135] It was Ms. Ramoutar's evidence that Tiffin had Rezwealth's paperwork at his office and usually handled the client himself and submitted the paperwork to Rezwealth, especially if it was a smaller amount. Ms. Ramoutar admitted that she had probably given him a blank form. For instance, for investor C.K.'s agreement of March 2, 2009, Ms. Ramoutar identified Tiffin's handwriting and testified that he created the Guaranteed 100 product written on the documentation, which Rezwealth did not have at that time. However, if it was an individual like M.A. who put in $200,000, Ms. Ramoutar testified Tiffin would want Ms. Ramoutar to meet them, otherwise Tiffin would handle the documentation. Ms. Ramoutar recalled that she did not meet the majority of Tiffin's potential clients, aside from perhaps at a Christmas party, but they did not discuss business then. Ms. Ramoutar also testified that some of Tiffin's clients became very involved calling her frequently and she would explain that Tiffin was in control, he spoke to Blackett and he knows about forex. Ms. Ramoutar acknowledged that she would have communication with Tiffin's clients after the receipt of funds because Rezwealth would send out correspondence along with their cheque.

[136] A chart indicating amounts paid by Rezwealth to Tiffin was tendered into evidence. Ms. Ramoutar testified that Tiffin negotiated with Blackett to offer five percent returns to Tiffin and another five percent to Rezwealth. It was Ms. Ramoutar's evidence that from the five percent Tiffin received he decided how much to give to clients. Ms. Ramoutar recalled that in some cases Tiffin would request advances of his commission as soon as the client's cheque cleared. Ms. Ramoutar testified that the structure was for Rezwealth to take the funds, place them with Blackett, do the bookkeeping to keep track of the money and then Blackett would pay Rezwealth, which in turn paid Tiffin. However, Ms. Ramoutar also noted that at one time money went from Blackett back to Mr. Ramoutar's TD account.

[137] When Blackett started to have issues paying in 2009, Ms. Ramtouar testified she offered to help as an attempt to get closer to Blackett to get access to see Blackett's $2 million account. She stated that Rezwealth began to pay Blackett's clients, whom she had never met before. In July 2009, Ms. Ramoutar testified, she placed $25,000 of her own funds into a managed forex account in the name of Mr. Ramoutar, which Blackett had access to. Ms. Ramoutar recalled that she requested Blackett to trade in the account until he made back all the money that was owed to people. Ms. Ramoutar testified that within three weeks the $25,000 grew to approximately $47,000 and she put in an additional $25,000 to make the account grow faster. By August 2009, Ms. Ramoutar recalled, Blackett had lost all the money that had gone into the account.

[138] Ms. Ramoutar has not been able to contact Blackett since early 2010. She recalled Blackett telling her in early 2009 that, as a result of Tiffin's involvement, Blackett's accounts were frozen and that by mid-2009, Blackett wasn't paying anyone. Ms. Ramoutar stated that sometime in 2009 Mr. M., as Tiffin's legal representative, asked Blackett to give him some indication of what was left in the account and Blackett provided a statement which appeared to represent that $2 million was still in the account as of July 2009. Ms. Ramoutar testified that as a result of Mr. M.'s inquiries in 2009, Blackett signed a document indicating that he owed Rezwealth $3 million. Blackett told Ms. Ramoutar throughout 2009 that he could still trade in the account even though it was frozen. Ms. Ramoutar also testified that she relied on Smith and Tiffin telling her to trust Blackett and the fact that Mr. M. was on board.

[139] An invoice dated June 22, 2009 from Mr. M. to Rezwealth, in the amount of $35,000, was tendered into evidence. The invoice details services of Mr. M. as a representative on the Commission's investigation of Rezwealth and for preparation of documentation, including promissory notes and debentures. Ms. Ramoutar testified that her previous legal counsel told her Rezwealth did not need a licence so long as she had contracts in place with the licenced individuals for her marketing fees. Ms. Ramoutar testified that Mr. M. told her that the new documentation, the promissory notes and debentures, would ensure certification with the Commission. Ms. Ramoutar put forth documentation which supported her testimony that Tiffin referred to Mr. M. as his lawyer. It was not until December 2009 that Ms. Ramoutar came to discover from Ho that Mr. M. was not registered with the bar, and could not represent her as legal counsel. Ms. Ramoutar testified that she acted on the direction of Tiffin and Mr. M. in the latter half of 2009. However, she also testified that Mr. Ramoutar provided Mr. M. with everything Mr. M. needed to represent Rezwealth as their lawyer.

[140] Ms. Ramoutar also provided the Panel with a number of text messages between Tiffin and herself. On August 13, 2009, Ms. Ramoutar received a text message from Tiffin that stated Tiffin had found a new client with $350,000. It was Ms. Ramoutar's evidence that by that time Tiffin knew Blackett had lost money and he was speeding things up instead of slowing them down. Ms. Ramoutar also testified that Tiffin wanted to borrow back money from the funds he brought to the forex program through Rezwealth, to do other deals with other individuals. Ms. Ramoutar's evidence was that Tiffin and his associate were the ones trying to get the forex program rolling in the fall of 2008 and early 2009. She also recalled that Tiffin was always telling her what to do with her business. She tendered evidence of another investment idea that Tiffin had forwarded to her by email of January 7, 2009, which involved an oil business that would receive money through Rezwealth.

[141] Upon being asked why Tiffin did not invest his client's money directly, rather than through Rezwealth, Ms. Ramoutar admitted she was aware that licenced individuals should not be taking investor money and putting it directly into the forex program. Specifically, Ms. Ramoutar testified "you are not supposed to be doing outside – - taking clients' money and doing stuff like that. So I was only licensed for a couple of years so I know a couple of the rules, but I don't know it in its entirety" (Ms. Ramoutar – Transcript of December 12, 2012 at pp. 113-114).

[142] Ms. Ramoutar challenged Ho's testimony in respect of the origins of a blacked-out document with Rezwealth letterhead. Ms. Ramoutar produced an email dated June 24, 2010, forwarded to her from Mr. Ramoutar, who had obtained it from B.H., with respect to a blacked out Rezwealth Participation Agreement form. In the relevant email of that chain, Tiffin stated that the Commission showed him investor E.B.'s application. During the Merits Hearing, Ho had previously identified a blacked-out Rezwealth Participation Agreement form attached as an exhibit to Tiffin's compelled examination as that of investor C.K., which Ho himself had blacked-out. In the Merits Hearing, in discussing procedural matters before testifying, Ms. Ramoutar alleged that the blacked-out form was not of C.K., but rather a copy of E.B.'s form which had been illegitimately obtained in some way. When Ms. Ramoutar returned to this document during her testimony, she stated that based on conversations with others, she believed that this document was E.B.'s application. This Panel indicated to Ms. Ramoutar during her testimony that this was third and fourth hand information, which the Panel would receive with a great deal of reservation. The original form of the blacked-out document is not necessary for the determination of this matter, especially since the blacked-out form was used for the purpose of demonstrating a typical format of the Rezwealth Participation Agreement. However, upon comparison of the blacked-out form to the copy of investor C.K.'s agreement, I find Ho's testimony in respect of the blacked-out Participation Agreement more credible.

Staff's Cross-Examination of Ms. Ramoutar

[143] Under cross-examination, Ms. Ramoutar made a number of relevant admissions. Ms. Ramoutar testified that she was the founder, directing mind and president of Rezwealth and as such was responsible for making all major business decisions. Ms. Ramoutar admitted that she and her son Chris Ramoutar were the only persons with signing authority over Rezwealth's

RBC bank account and that she had overall responsibility for Rezwealth's finances. Ms. Ramoutar also acknowledged that Rezwealth offered clients fixed rate, variable rate and risky account programs and that she decided the rate of return and what Rezwealth did with the funds received from investors in each of those programs.

[144] Ms. Ramoutar testified that, in the latter part of 2009, Mr. Ramoutar was in charge of the office work and responsibilities at Rezwealth, but that Mr. M. handled anything to do with Blackett and structuring Rezwealth. Ms. Ramoutar stated that, with respect to forex, Mr. Ramoutar took his lead from Mr. M., but acknowledged it was her decision to hire and pay Mr. M.

[145] When directed to her compelled testimony of January 26, 2010 (the "**2010 Compelled Testimony**"), Ms. Ramoutar admitted that she had told some investors that their funds would be with Blackett for trading and some would be loaned to other clients. Ms. Ramoutar initially denied telling individuals that the returns would be guaranteed, but then acknowledged that some investors were told that the returns were secured and that some might have been told that the money was guaranteed. Ms. Ramoutar explained that Rezwealth did second mortgages on real estate and that is why the funds were "secured" or "guaranteed".

[146] From time to time, Ms. Ramoutar referred to investors as "lenders" and admitted that those individuals came from referral sources who were paid a referral fee, including Tiffin and Mr. Ramoutar. Ms. Ramoutar explicitly stated that Tiffin referred clients to her for forex through Rezwealth. Ms. Ramoutar admitted that the arrangement whereby Tiffin referred clients to Rezwealth was the result of a discussion between Ms. Ramoutar and Tiffin and at least some of the funds accepted from Tiffin's clients were provided to Blackett.

[147] At the Merits Hearing, Ms. Ramoutar denied that it was her idea to structure the forex program in a way that would result in Rezwealth being the middle man, accepting funds from Tiffin's clients and investing with Blackett. However, in the 2010 Compelled Testimony Ms. Ramoutar had previously testified that it was her idea to structure the program in that way. At the Merits Hearing, Ms. Ramoutar also denied that she decided the rate of return for Tiffin's clients. In the 2010 Compelled Testimony, Ms. Ramoutar stated that Tiffin could suggest the rate of return for Tiffin's clients, but in the end it was her decision.

[148] Ms. Ramoutar admitted that she and Mr. Ramoutar discussed the investment program with some of Tiffin's clients and she agreed that it was her decision to accept those clients into the Rezwealth program. Ms. Ramoutar also acknowledged that she had the power to refuse an investment with Rezwealth and that Tiffin did not have any ownership interest in Rezwealth. In fact, one of the text messages tendered into evidence through Ms. Ramoutar that was directed to Tiffin expressed that Tiffin did not control anyone at Rezwealth.

[149] Specific admissions made by Ms. Ramoutar, in the course of Staff's cross-examination, with respect to Rezwealth's involvement include:

- Investors funds were deposited into Rezwealth's bank account;
- Rezwealth pooled investor funds and provided some to Blackett, which Blackett used to engage in forex trading;
- Rezwealth initially received five percent per month returns from Blackett, but in late 2008 or early 2009 Rezwealth received ten percent, of which five percent went to Tiffin and Tiffin's clients;
- Rezwealth received its last payments from Blackett on March 9, 2009;
- Investors who invested before April 2009 were asked to sign new agreements, which were backdated;
- Investors who invested after April 2009 filled in new forms of agreement;
- By September 2009 Ms. Ramoutar realized Blackett was lying and the funds were not there;
- Rezwealth continued to take new investments until December 21, 2009;
- Rezwealth continued to make monthly payments to investors after it stopped receiving payments from Blackett in March 2009;
- From March 2009 to December 2009 Rezwealth's investors were not told that Rezwealth had stopped receiving payments from Blackett; and
- Rezwealth used new investor funds to make payments to other investors.

(Ms. Ramoutar – Transcript of December 13, 2012 at pp. 40-41, 47-51 and 54).

(d) Tiffin's Compelled Testimony

[150] Tiffin's compelled testimony of December 3, 2009 ("**Tiffin's Compelled Testimony**") was tendered into evidence through Ho on the request of Ms. Ramoutar for the purpose of her defence. At the end of the Merits Hearing, Ms. Ramoutar submitted a summary of excerpts from Tiffin's Compelled Testimony, which she wished to bring to the Panel's attention for the same purpose.

[151] In Tiffin's Compelled Testimony, Tiffin states that he met Ms. Ramoutar in 2006, when she started to attend seminars that be conducted and then she referred clients to him for life insurance, annuities and other such financial products. Tiffin explained that Ms. Ramoutar met with people for credit restoration and did triage because after interviewing people she would send them to professionals.

[152] Tiffin recalled that Ms. Ramoutar told him about the Rezwealth investment program in September 2008. Tiffin stated that he began to refer his clients to Rezwealth after the September 2008 crash. Tiffin explained that the program offered his clients a fixed two percent per month rate of return, so he would introduce them to Rezwealth. Tiffin also stated that Rezwealth was supposed to be investing 10 percent of funds in forex with stop losses and 90 percent elsewhere, including condos, mortgages and bridge loans. It was Tiffin's recollection that all but one or two of his clients went to meet with Rezwealth, and despite him telling them the rate of return and that it was guaranteed he'd still tell clients to speak to Rezwealth. Tiffin stated that he had no involvement in filling out the forms, but did act as a liaison by picking up paperwork and delivering it to Ms. Ramoutar. In Tiffin's Compelled Testimony, Tiffin states that all he did was refer people to Rezwealth, but never signed documentation. Tiffin acknowledged that he gave people who brought him clients a finder's fee or marketing fee. Tiffin further acknowledged that he received three percent per month of what his clients put in as compensation. Tiffin also admitted to borrowing funds from Rezwealth after he brought them business.

[153] In Tiffin's Compelled Testimony, Tiffin states that he was aware Rezwealth dealt with Blackett, that Blackett did the forex trading for Rezwealth and acknowledged that he met Blackett. Tiffin recalled that Ms. Ramoutar took him to see Blackett in September or October 2008. Tiffin also referred to Mr. M. as his tax lawyer on several occasions.

3. Compelled Testimonies of Mr. Ramoutar, Ms. Ramoutar and Chris Ramoutar

[154] Ho conducted compelled interviews of Ms. Ramoutar on December 23, 2009 and January 26, 2010. The Panel finds that Ms. Ramoutar's oral evidence at the Merits hearing is the best evidence except where her oral evidence was in contradiction of her compelled testimony. I have considered her oral testimony and certain excerpts of her compelled testimony as described above and do not find it necessary to repeat her compelled evidence here.

[155] Ho testified that he conducted a compelled interview of Mr. Ramoutar on January 28, 2010. Mr. Ramoutar made the following admissions in his compelled interview. Mr. Ramoutar admitted that his responsibilities at Rezwealth were to handle clients, help them fill out forms and figure out what they need, and as a director to make sure the company continued to grow and to be consulted on big decisions. Mr. Ramoutar also acknowledged that Rezwealth accepted funds from its clients or investors for three types of programs: "secured" fixed-rate interest, "floating" interest and "risky" account. Mr. Ramoutar admitted that he took over dealing with clients from Ms. Ramoutar in September 2009, but stated that he did not make any decisions about who gets money, where the money is going, who gets paid or who is referring people. Mr. Ramoutar stated that that he explained features of the Rezwealth Investments to investors, including telling them that their principal and the rate of return were guaranteed in the "secured" program. It was Mr. Ramoutar's evidence that cheques for all the Rezwealth Investments went to the same Rezwealth account and that Rezwealth made monthly payments to investors and clients from whom they borrowed money.

[156] Mr. Ramoutar admitted that he helped to develop Rezwealth's promotional brochures for prospective investors and the forms of documents for the Rezwealth Investment. He also admitted that he helped investors fill out and complete documents for the Rezwealth Investments and he signed documents on behalf of Rezwealth.

[157] Mr. Ramoutar also admitted to referring five investors to Rezwealth. Mr. Ramoutar stated that Rezwealth used the money it took from investors to loan out to other clients and that some of the money was forwarded to Blackett for forex trading. Mr. Ramoutar explained that the arrangement between Rezwealth and Blackett was for Rezwealth to provide Blackett with money for trading in forex among other things and for Blackett to provide a 10 percent monthly return.

[158] Mr. Ramoutar admitted that Blackett stopped making payments to Rezwealth in March 2009. It was Mr. Ramoutar's evidence that in August 2009, Rezwealth asked clients who had already invested with Rezwealth to come into the office and fill out new forms and admitted that he himself met with a number of people for that purpose. Furthermore, Mr. Ramoutar admitted that clients were told that the new forms were replacing the old and for record keeping it was easier if they were backdated.

[159] On November 7, 2012, Staff, through Ho, tendered into evidence the compelled testimony of Chris Ramoutar, dated February 5, 2010. Staff provided the Affidavit of Rita Pascuzzi, sworn November 6, 2012, which detailed the repeated efforts of Staff to serve Chris Ramoutar with a summons to attend as a witness. The Panel notes that Ms. Ramoutar had initially indicated that she herself would be calling Chris Ramoutar as a witness, Ms. Ramoutar did not oppose the tendering of the compelled testimony and she advised the Panel that she herself would have no luck serving him with a summons to appear.

[160] The compelled examination of Chris Ramoutar, corroborated a number of details that were already in evidence. For instance, he admitted that he and Ms. Ramoutar had signing authority over the one bank account Rezwealth held with RBC. Chris Ramoutar admitted that he signed cheques on behalf of Rezwealth, dealt with deposits for Rezwealth and was responsible for issuing monthly payments to investors. Chris Ramoutar also stated that Rezwealth paid referral cheques to people who referred investors. He acknowledged that Rezwealth required existing investors to complete new forms in or around August 2009. After Chris Ramoutar deposited investors' funds into the Rezwealth Account, Chris Ramoutar admitted that they would try to get them into Blackett's hands for forex. Chris Ramoutar also admitted that Blackett provided monthly payments to Rezweath until around January 2009 and Rezwealth used funds from Blackett to make monthly payments to investors.

[161] Chris Ramoutar stated that after Blackett stopped making payments to Rezwealth, Rezwealth used the funds that Rezwealth received from investors to make monthly payments to other investors throughout 2009.

4. Documentary Evidence of the Rezwealth Investments

(a) Investment Agreements

[162] Staff, through Ho, tendered 48 documents with Rezwealth letterhead, entitled either "Subscription Form for Participating Debenture" or "Promissory Note" and signed in all but one case on behalf of Rezwealth by its representatives, including Ms. Ramoutar and Mr. Ramoutar, as evidence of the Rezwealth Investments. In addition, seven other documents on Rezwealth letterhead with the titles "Unsecured Debenture" or "Participation Agreement" were provided as evidence of the Rezwealth Investments. One further agreement was tendered with no title or letterhead, but had a similar format to the participation agreement and was clearly for the purpose of Rezwealth's pooling of funds for forex trading. Ho testified that he obtained most of the documents from Ms. Ramoutar and the remainder from various investors and used them to identify investors who deposited funds to the Rezwealth account for the purpose of his Source and Application of Funds Analysis which he had created based on banking documents (the "**Rezwealth Funds Analysis**").

[163] According to Ho, Rezwealth documented investments by using forms entitled "Participation Agreement" until the summer of 2009 when the company hired a consultant, Mr. M., to review Rezwealth's practices and activities. In his compelled testimony of January 28, 2010, Mr. Ramoutar testified that Mr. M. designed the new forms, entitled "Subscription Form for Participating Debenture" for those investing less than $50,000 and "Promissory Note" for those investing more than $50,000. In Mr. Ramoutar's compelled testimony, he also admits that in August 2009 Rezwealth was replacing old forms, so existing Rezwealth investors were asked to fill out the new forms and stated that backdating them to the original date of the investment was easier for bookkeeping. In one of the Rezwealth Investment agreements, investor H.G. dated the documents twice. The new form was dated with what is presumably the original date of investment, November 20, 2008, and a second date on which the new form was signed, September 21, 2009 (Exhibit 8, Tab 48). Ho's review of Rezwealth's banking information confirmed that H.G.'s investment was made in either November or December of 2008.

(b) Accredited Investor Forms

[164] The new forms evidencing Rezwealth Investments which were titled "Promissory Note" also attached an accredited investor form. A number of these forms were signed, but not completed with an indication of how the investor qualified as an accredited investor. In one instance, "Appendix A" to the investment contract of K.D. contained the definition of accredited investor as defined in National Instrument 45-106 with boxes for the investor to check the applicable section, but the investor signed without checking a box. The same agreement contained a "Form 2" in which the investor appears to have checked a box and initialled beside it to signify that the investor was representing that she was an accredited investor. Finally, "Form 3" of K.D.'s agreement is an accredited investor certificate, which much like "Appendix A" contained various definitions of accredited investor, for the investor to circle the appropriate definition. None of the definitions of accredited investor was circled, but investor K.D. did sign the document.

[165] Rezwealth's consultant, Mr. M., responded on behalf of Rezwealth to several inquiries made by Staff in 2009. The correspondence of Mr. M. suggested that Rezwealth was using the accredited investor exemption to fund expansion of its business into the real estate market and that a report of exempt distribution would be filed no later than October 2009. Ho testified that during his compelled examination, Mr. Ramoutar approved Mr. M.'s letters to the Commission, but that the certificate obtained by Ho pursuant to section 139 of the Act indicates that no such report of exempt distribution was filed by Rezwealth.

(c) Promotional Materials and Website

[166] A Rezwealth promotional pamphlet was also tendered into evidence. In his compelled testimony of January 28, 2010, Mr. Ramoutar testified that he helped design Rezwealth brochures and was responsible for their approval. The tendered Rezwealth pamphlet lists a number of products and services including credit restoration, debt restructuring, tax planning and investment planning. A section of Rezwealth's pamphlet entitled "Investments" made the following representations:

- with ***Rezwealth's*** secured investments, we can offer you a return of up to 20% (1.67% per mth) on your investments. Why pay off 5% on your mortgage if you can earn 20%?

- With our aggressive investments we can guarantee a minimum return of 6% per year (or 0.5% per mth) up to a return of 36% (or 3% per mth).

(Exhibit 8, Tab 58)

[167] Mr. Ramoutar stated in his compelled examination that the secured account referred to in the pamphlet corresponded to the secured account offered by Rezwealth and that the aggressive investments corresponded to the floating account. A second promotional pamphlet of Rezwealth's was also entered into evidence. The second pamphlet discussed investment planning and strategies and expressly stated "[t]he developed wealth creation tools can guarantee a minimum annual return of 6% to 36% depending on your particular risk tolerance" (Exhibit 11, Tab 37).

[168] Tendered into evidence were two image captures of Rezwealth's website. The first was taken on March 26, 2009 and shows a number of services offered by Rezwealth, including investment planning. The second is a Frequently Asked Questions ("**FAQs**") section, captured on December 7, 2011, which explains that "Rezwealth is partnered with several experienced specialists" and claims to find "guaranteed investments up to 20%" by investing in the foreign exchange market, mutual funds and mortgages (Exhibit 11, Tab 32). The FAQs also confirm that one of the products offered by Rezwealth is investment counselling.

(d) Communications with Investors

[169] The Panel was also provided with letters addressed to investor C.K. from April 2009 to November 2009. The subject line of each letter reads "Investment Interest Earned" and the document describes that Rezwealth was enclosing a cheque representing interest of 2% earned on the previous month on C.K.'s investment [Ex. 9, Tab 9]. Ho testified that he interviewed C.K.'s husband, K.K., who had jointly invested with her, and that K.K. confirmed that each letter was accompanied by a cheque during the months that he received payments from Rezwealth.

[170] A further letter was sent from Rezwealth to investor C.K. on November 13, 2009, which states that Rezwealth encountered challenges with the Commission and its forex trader and that the Commission had randomly selected Rezwealth for an inquiry, causing unforeseen delays. The November 13, 2009 letter, signed by Ms. Ramoutar as President, directed investors to contact Mr. Ramoutar if they had any questions and invited them to advise Rezwealth if they were being contacted by the Commission. Ho testified that the investigation commenced by way of complaints to the Commission's contact centre.

(e) Investment Referrals and Interest Calculations

[171] Ho obtained from Ms. Ramoutar an excel spreadsheet, which Ms. Ramoutar admitted Rezwealth used to calculate monthly interest payments and referral payments with respect to investments. The total amount invested as it appears at the bottom of the spreadsheet is $2,456,600. The spreadsheet also attached a schedule which was described by Ho as a representation of rates of return for each of the "floating" and "risky" accounts per month. Ho testified that he received a similar document from an investor J.R. who had explained that those were the rates of return paid out by Rezwealth in those two accounts.

[172] Mr. Ramoutar provided Ho with a different document entitled "Referral List" which appears to list names of individuals who referred investors to Rezwealth, including Tiffin and Mr. Ramoutar across the first row and the names of investors referred below each in the columns (the "**Rezwealth Referral List**"). Ho testified that Mr. Ramoutar told him under compelled examination that he referred five investors to Rezwealth, but the Referral List only provides the names of three investors under Mr. Ramoutar's column.

5. Ms. Ramoutar's Cross-examination of Ho's Investigation

[173] Under cross-examination, Ho testified that he had spoken to investors who were referred by Tiffin. Ho's evidence was that some of those investors stated that while they were referred by Tiffin, they had a direct discussion with Ms. Ramoutar, who explained their investment. Ho provided Ms. Ramoutar with the names of four separate investors, with whom he had spoken,

who stated that Ms. Ramoutar met with them, explained the monthly rate of return, explained guaranteed versus floating rates and/or that investor funds would be used for forex trading.

[174] Ms. Ramoutar, through Ho, tendered into evidence an email communication that Tiffin wrote which contains the subject line "earn 24% guaranteed and 100% guarantee on your principle[sic]" (the "**Tiffin Email**"; Ex. 25). The Tiffin Email was forwarded in a mass email and in the email Tiffin stated that he had joined forces with Rezwealth to offer the product. Ho testified that there was no evidence that Rezwealth issued similar emails to solicit investors.

[175] Ms. Ramoutar sought clarification from Ho on an exhibit appended to Tiffin's compelled testimony. Ho testified that he redacted a one page participation agreement on Rezwealth's letterhead and that the original had been provided by investors K.K. and C.K. Ms. Ramoutar suggested that the document identified by Ho was somehow illegally obtained before it came into the possession of the Commission and that it in fact belonged to investor E.B. However, Ho reasserted his evidence that the document was in fact that of investors he had identified. As decided above at paragraph 142, I find Ho's evidence to be credible.

[176] Ho testified that he was aware of a forex trading account held by Mr. Ramoutar, opened on the suggestion of Blackett, but did not see any transfer of funds from Rezwealth's account to the trading account. Ho also testified that Ms. Ramoutar and Chris Ramoutar both told him that Chris Ramoutar did the accounting on behalf of Rezwealth.

F. Conduct of the Tiffin Respondents

[177] The Tiffin Respondents admitted that they solicited Ontario residents to invest in "Rezwealth Investment Contracts", characterized initially as the pooling of investor funds for forex trading and later described as the purchase of promissory notes or debentures. Tiffin also admitted that he sent at least two emails to potential investors regarding the Rezwealth Investment Contracts in which he represented that he had "joined forces with Rezwealth" to offer guaranteed returns of 24% per annum and guarantees on investors' principal. Tiffin agreed that he advertised an investment strategy on Tiffin Financial's website, which featured "Guaranteed principal" and "Guaranteed returns at 24% per annum" based upon what Tiffin had been told by Ms. Ramoutar.

[178] Tiffin specifically admitted to having met with some investors, discussed the features of the investment with some investors, assisted a few investors in completing agreements related to Rezwealth Investment Contracts and facilitated payment of some investors' funds to Rezwealth by delivering their cheques to Rezwealth. As a result of Tiffin's activities, at least eight investors were directly referred to Rezwealth by the Tiffin Respondents (the "**Direct Investors**"), who collectively invested approximately $1 million in the Rezwealth Investment Contracts during the Material Time. Tiffin Respondents agree that they indirectly referred 11 further investors through the Direct Investors (the "**Indirect Investors**"). The Indirect Investors collectively invested approximately $1 million in the Rezwealth Investment Contracts.The Tiffin Respondents admitted that they received a total of approximately $517,000 in referral fees from Rezwealth.

[179] The Tiffin Respondents acknowledged that, by engaging in such conduct, they acted contrary to subsection 25(1)(a), as in force at the time the conduct at issue commenced, subsection 25(1), as subsequently amended on September 28, 2009, and subsection 53(1) of the Act. Specifically, the Tiffin Respondents agreed that they traded or engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so and without an exemption from the dealer registration requirement. Further, the Tiffin Respondents agreed that their activities in respect of the Rezwealth Investment Contracts constituted trades in securities which were distributions, for which no preliminary prospectus was filed or receipted by the Director. Tiffin also agreed that he authorized, permitted or acquiesced in Tiffin Financial's non-compliance with Ontario securities law, contrary to section 129.2 of the Act. Finally, the Tiffin Respondents acknowledged that their conduct was contrary to the public interest and harmful to the integrity of the capital markets.

G. Flow of Investor Funds

[180] Ho summonsed and obtained banking documents from RBC, TD, BNS and BMO. Ho also interviewed investors and certain respondents who provided him with documents including: investor agreements, correspondence, emails, etc. From the banking records and other investor documents and information he obtained, Ho prepared the Rezwealth Funds Analysis, which can be separated into two main focuses. The first relates to the activity in the account of the Rezwealth Respondents and receipt of funds by the Tiffin Respondents. The second focus of the analysis relates to activity in five bank accounts held by Blackett or 215 Inc. and the disbursement of funds to Smith and 177 Inc., amongst others.

[181] Ho created spread sheets for each bank account which set out transactions in chronological order and describe corresponding details of the transaction obtained from the supporting bank documents. A column entitled "DR" reflects all payments that went out of, or were debited from, the account and a column entitled "CR" reflects the inflow of funds deposited into, or credited to, the account. Ho then took each transaction and put it into a number of categories he created to pinpoint: (a) source of funds from the CR column to show how much was received from investors and other parties; and (b) application of funds from the DR column to show who received payments and disbursements out of the account. Specific charts are discussed in more detail below.

[182] Ho also prepared a summary of investor deposits for Rezwealth's account and another for the five Blackett accounts.

1. The Blackett and 215 Inc. Accounts

[183] Ho provided the panel with bank statements for the following: one TD account held by 215 Inc., one TD account held by Blackett, two BMO accounts held by Blackett and one BNS account held by Blackett (the "**Blackett Accounts**"). One of the BMO Blackett Accounts was a United States Dollar ("**USD**") account. The bank statements for each of the Blackett Accounts were provided from January 1, 2008 to the date each account was closed, between November 18, 2008 to April 14, 2009. Ho testified that the January 1, 2008 start date for this analysis was chosen for consistency with his analysis of the Rezwealth Account.

[184] Ho obtained supporting bank documents for transactions over $5,000, and in some specific cases transactions under $5,000, which flowed through the Blackett Accounts during the various periods, including copies of cheques or bank drafts deposited or issued out of the account and wire transfer details. All of the Blackett Accounts' opening documents indicate that the signatory was Blackett. These documents and the transactions detailed therein formed the basis of Ho's source and application of funds analysis of the Blackett Accounts and his consolidation of funds for those accounts (the "**Blackett Funds Analysis**"). Ho testified that his analysis of the USD account shows values in Canadian dollars, which he calculated using the average exchange rate from the Bank of Canada website for the period of time that the account was active.

[185] Ho summonsed the identification of certain payees to whom Blackett had made numerous, and often monthly, payments through on-line transfers. Payees included Mr. Ramoutar, Smith and Blackett's mother. Ho also provided the Panel with a letter from BMO dated March 12, 2009, which was addressed to Blackett and stated "after reviewing these accounts […] we do not have overall a sufficient degree of comfort with the transactions through the accounts or the nature of your business operations", required that Blackett "make alternate banking arrangements" and advised that BMO would be closing the account within 30 days (Exhibit 17, Tab 7). The letter is consistent with the account closure date.

[186] The Blackett Funds Analysis records funds that were received by Blackett and/or 215 Inc. from investors, other individuals that could not be identified as investors and transfers from other Blackett accounts, among others. The Blackett Funds Analysis also shows funds paid by Blackett and/or 215 Inc. to investors, forex trading entities, Smith and 177 Inc., Blackett's mother, mortgage payments, credit card payments and taken out as cash withdrawals, among others.

[187] The Blackett Funds Analysis provides consolidated subtotals for the source and application of funds in the Blackett Accounts from January 1, 2008 to April 14, 2009. Ho testified that the consolidated opening balance of the five accounts on January 1, 2008 was $22,044 (Exhibit 18, Tab 6). According to the Blackett Funds Analysis, the Blackett Accounts received $3,018,649 from investors and paid investors $1,383,122 during the period under review.

[188] Ho also prepared a summary of investor deposits and organized values by date of investment under the name of each investor. He identified investors based on interviews conducted with investors, documents obtained from them, information on the memo line of cheques and with the assistance of the client list provided by Smith. Ho's analysis indicates that 56 investors deposited the $3,018,649 referred to above (the "**Blackett Investors**"). Included in the count of investors is Rezwealth. Ho reconciled the account records of Rezwealth against the records for the Blackett Accounts to show that total payments from Rezwealth to Blackett amount to $575,175, although approximately $75,000 were apparently never deposited to the Blackett Accounts, but rather a $50,000 payment from Rezwealth was deposited by Blackett to a bank account of Horizon Trading Company Inc. and other Rezwealth cheques for approximately $25,000 were cashed out by Blackett at the National Money Mart Company.

[189] Ho provided the Panel with a summary of payments by Blackett and/or 215 Inc. to the Blackett Investors organized by investor name and date. Ho's summary indicates that the total paid to the Blackett Investors was the $1,383,122 referred to above, including $62,000 deposited to the Rezwealth Account in respect of their investments with Blackett and/or 215 Inc.

[190] In terms of the funds flowing out of the Blackett Accounts, the Blackett Funds Analysis indicates that five forex trading related entities received $542,430, Smith and 177 Inc. received $178,533 and $705,254 was used for the benefit of Blackett and his family as cash withdrawals, loan and mortgage payments, automobile payments, retail, phone and other similar payments (Exhibit 18, Tab 6). A further $217,897 was used to pay a TD Visa credit card and $102,804 was used to satisfy other credit card payments. Ho testified that he was told by Smith that 177 Inc. facilitated payments to investors at the request of Blackett. As a result, the Blackett Funds Analysis indicates that Smith personally received $137,383 and 177 Inc. received $41,150, which together amount to the $178,533 referred to above.

[191] The balance of the Blackett Accounts on the end date of the review period was zero.

2. Smith and 177 Inc.

[192] Ho's Blackett Funds Analysis identified that 27 investors who were referred to Blackett by Smith deposited $758,000 into the Blackett Accounts between January 1, 2008 and April 14, 2009. He identified that 27 of the 56 Blackett Investors were referred by Smith based on the client list provided to him by Smith. Ho testified that Smith's client list contained the names of 48 investors who had invested a total of $1.2 million with Blackett, but the Blackett Funds Analysis only covered five of Blackett's accounts and only the review period referred to above.

3. The Rezwealth RBC Account

[193] Ho provided the Panel with bank statements from Rezwealth's only known account with RBC (the "**Rezwealth Account**"), from the date it was opened, March 18, 2008, to January 4, 2010. Ho explained that the Commission's freeze order over the Rezwealth Account was obtained on December 22, 2009 (the "**Freeze Order**") and after that date there was essentially no transaction, aside from bank fees. Ho also obtained supporting bank documents for various transactions that flowed through the Rezwealth Account during that period, including copies of cheques or bank drafts deposited or issued out of the account and wire transfer. The Rezwealth Account opening document indicates that the signatories were Ms. Ramoutar and her son Chris Ramoutar. As stated above, these documents, the transactions detailed therein, and other investor documents formed the basis of the Rezwealth Funds Analysis.

[194] The Rezwealth Funds Analysis records funds received by Rezwealth from investors, Blackett and 215 Inc., NFF, Ms. Ramoutar and her three children, cash deposits, Smith and 177 Inc. (characterized as loan repayments), among others. The Rezwealth Funds Analysis also shows funds paid by Rezwealth to investors, Blackett and 215 Inc., NFF, Ms. Ramoutar and her three children, the Tiffin Respondents, Smith and 177 Inc. (characterized as loans) and cash withdrawals.

[195] The Rezwealth Funds Analysis provides subtotals for the source and application of funds beginning July 1, 2009 for the six months leading up the to the Freeze Order of December 22, 2009, a period during which the Rezwealth Respondents were not receiving payments from Blackett or 215 Inc. The totals and subtotals were then summarised in two separate Rezwealth Account balance sheets, one covering the period of March 18, 2008 to December 22, 2009 (Exhibit 18, Tab 1) and one which reflects values in the period of July 1, 2009 to December 22, 2009 (Exhibit 18, Tab 2). The Rezwealth Funds Analysis indicates that the Rezwealth Account received $2,910,305 from investors, $970,940 of which was received on or after July 1, 2009.

[196] Ho also prepared a summary of investor deposits and organized values by date of investment under the name of each investor. He identified investors with the assistance of the excel spreadsheet, which was used by Rezwealth to calculate monthly interest payments, and the Referral List provided to him. Ho's analysis indicates that 45 investors provided the $2,910,305 that was deposited to the Rezwealth Account referred to above (the "**Rezwealth Investors**"). Ho testified that where one investment was made jointly by two persons he counted them as one investor. He also provided the panel with a summary of Rezwealth payments to investors organized by investor name and date. Ho's summary indicates that the total paid to investors was $671,194. The Rezwealth Funds Analysis also shows that Blackett and 215 Inc. deposited a total of $62,000 to the Rezwealth Account and that their last payment to Rezwealth was on March 9, 2009. Further, Ms. Ramoutar and her children deposited a total of $39,000 and cash deposits totalled $65,950.

[197] With respect to payments out of the Rezwealth Account, the Rezwealth Funds Analysis indicates that $671,194 was paid to investors, $296,622 of which was paid on or after July 1, 2009. It also shows that the following persons or companies received funds from the Rezwealth Account:

● Blackett and 215 Inc.	$575,175	($ 25,150)*
● Ms. Ramoutar and her children	$509,747	($177,692)*
● Rezwealth cash withdrawals	$ 56,114	($ 28,371)*
● Tiffin and Tiffin Financial	$577,000	($330,000)*
Total	$1,718,036	($561,213)*

*paid on or after July 1, 2009 (Exhibit 18, Tabs 1-2)

[198] The remaining funds were disbursed in different ways, including operational expenses, payments to life insurance companies and loans to Smith and other individuals.

[199] Ho testified that the inflow of funds from all sources other than new investors for the period from July 1, 2009 to December 22, 2009 was approximately $150,000 and that the balance of the account at the beginning of that period was

approximately $110,000 (Ho – Transcript of November 2, 2012 at pp. 90-91; Ex. 18, Tab 2). This would amount to approximately $260,000 potentially available from sources other than investors, to make payments out of the Rezwealth Account. However, $296,622 was paid to investors out of the Rezwealth Account during that time frame, as well as $177,692 to the Ramoutars and $28,371 in cash withdrawals. Therefore, at least some of the new funds from investors must have been used to pay back other investors, the Ramoutars or taken out in cash.

[200] The balance of the Rezwealth Account on the date of the Freeze Order was $60,528.

4. The Tiffin Respondents

[201] In the Agreed Facts, the Tiffin Respondents admitted to having received $517,000 in referral fees from Rezwealth. The Rezwealth Funds Analysis indicates that the Tiffin Respondents received $577,000 from the Rezwealth Account. I accept the amount in the Agreed Facts.

5. Ms. Ramoutar's Cross-Examination on Ho's Financial Analysis

[202] In cross-examination by Ms. Ramoutar, Ho testified that the scope of his funds analysis was between January 2008 and December 2009 because he began his investigation with Rezwealth's Account, which was opened in early 2008. Therefore, Ho chose to summons evidence pertaining to the Blackett Accounts for the same time frame for the sake of consistency. Ho also testified that he did not pursue further evidence concerning funds flowing out of the Blackett Accounts to forex entities because, among other things, it was unnecessary for the purpose of supporting the Commission's allegations and Ho did not believe that the document purporting to be Blackett's forex account statement, containing $2 million, was genuine. Furthermore, Ho testified that his Blackett Funds Analysis reveals that from January 2008 to April 2009, Blackett received approximately $3 million from investors, but only directed approximately $542,000 to four forex trading entities. Nevertheless, Ho acknowledged that he had received documents, which supported the fact that Blackett had taken investments from clients before January 2008.

[203] Ho also testified that he did not conduct a funds analysis for Smith or 177 Inc. for a number of reasons, including that Smith is alleged to have conducted unregistered trading and to have received referral fees from Blackett. However, Smith did not accept investor funds for Blackett, no fraud was alleged against Smith or 177 Inc., Smith admitted to receiving referral fees and the Blackett Funds Analysis substantiated the amount admitted by Smith. Further, Ho testified that there was no evidence that Smith deposited investor funds into his own account. Therefore, investors referred by Smith would provide cheques written out directly to Blackett or 215 Inc., which is why the names of those investors appear in the summary of deposits within the Blackett Funds Analysis.

[204] Ho admitted that while Smith was an investor with Blackett, Ho did not include Smith in the summary of payments to Blackett Investors, but did highlight payments to Smith and 177 Inc. in the Blackett Funds Analysis summary of application of funds. Ho stated this was because Smith was also a respondent and he could be distinguished from other investors since Smith also received referral fees.

[205] Ho explained certain aspects of the Blackett Funds Analysis in detail, including the categories of funds labelled "other individuals" and "unknown". Ho testified that the source of funds labelled "other individuals" in the amount of $854,919 in the Blackett Funds Analysis are deposits coming from individuals that Ho was not able to confirm as investors and for which he was unable to verify the purpose of the transaction. Ho further testified that the source of funds labelled "unknown" in the amount of $69,000 in the Blackett Funds Analysis are transactions for which the bank was not able to provide documents or Ho had not asked for further documentation on the transaction.

[206] With respect to mortgage payments made by Blackett, Ho provided documentation which supported his finding that funds out of the Blackett BNS account were used for a $230,000 Scarborough property acquired by Blackett in August 2008.

[207] Ho testified about several investors who received payments from the Blackett Accounts before the dates of their recorded deposits into the Blackett Accounts. However, it was noted that the deposits recorded do not represent the total amount invested by each investor, but merely the deposit entries made during the time for which the analysis was conducted.

[208] Ms. Ramoutar asked Ho to identify the payments made to the Rezwealth Account prior to October 1, 2008, which is purportedly the first date that one of Tiffin's referred clients, investor M.A. invested with Rezwealth. Ho identified seven investors who deposited a total of $207,940 to the Rezwealth Account before October 1, 2008. Ho also noted that M.A.'s investment was $200,000. Ho testified that the Rezwealth Referral List was consistent with Ho's understanding of the investors that Tiffin had referred to Rezwealth based on what Tiffin had told him and what was in the Agreed Facts. Further, Ho acknowledged that approximately $2 million of the $2.9 million invested with Rezwealth relates to clients of Tiffin. In view of the indication that approximately $208,000 was raised by Rezwealth before October 1, 2008, one may deduce that the remaining $692,000 was raised by Rezwealth after that date, other than through Tiffin's referrals. Ho testified that he had spoken to investors who were

referred to Rezwealth by Tiffin, but who stated they had a direct discussion with Ms. Ramoutar, who explained the Rezwealth Investment to them.

V. MERITS ANALYSIS

A. Did the Respondents trade in securities or engage in or hold themselves out as engaging in the business of trading in securities without registration in breach of subsection 25(1)(a), for conduct predating September 28, 2009, and subsection 25(1) of the Act, for conduct on and after September 28, 2009, and contrary to the public interest?

1. The Law

[209] During the Material Time prior to September 28, 2009, subsection 25(1)(a) of the Act set out the registration requirement as follows:

> **25. (1) Registration for trading** – 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.

[210] During the Material Time, on and after September 28, 2009, subsection 25(1) of the Act provides:

> **25. Registration – (1) Dealers** – 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.

[211] The language of subsection 25(1) of the Act has become broader as a result of the 2009 amendments and includes “engaging in the business of trading”. The phrase "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 enumerates a non-exhaustive list of 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, including:

> (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.

[212] Both subsection 25(1)(a) and its successor provision, subsection 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,

[…]

(e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

[213] The inclusion of the word "indirectly" in the definition of "acts in furtherance", cited above in subsection 1(1)(e) of the Act, reflects an express legislative intention to capture conduct which seeks to avoid the registration requirement by doing indirectly that which is prohibited directly. The Commission has established that trading is a broad concept which includes any sale or disposition of a security for valuable consideration, including any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of such a sale or disposition.

[214] The Commission has found that a variety of activities constitute acts in furtherance of trades. For example, the Commission has found that accepting and depositing investor cheques in a bank account for the purchase of shares constitute acts in furtherance of trades (*Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 1727 ("***Limelight***") at para. 133). Other examples of activities that have been considered acts in furtherance of trades by the Commission include, but are not limited to:

a. providing potential investors with subscription agreements to execute;

b. distributing promotional materials concerning potential investments;

c. issuing and signing share certificates;

d. preparing and disseminating materials describing investment programs;

e. preparing and disseminating forms of agreements for signature by investors;

f. conducting information sessions with groups of investors; and

g. meeting with individual investors.

(*Re Momentas Corporation* (2006), 29 O.S.C.B. 7408 ("***Momentas***") at para. 80)

[215] Solicitation or direct contact with investors is not required for an act to constitute an act in furtherance of trade (*Re Lett* (2004), 27 O.S.C.B. 3215 at paras. 51 and 64).

[216] The definition of "security " is also found at subsection 1(1) of the Act:

"security" includes,

[…]

(d) any document constituting evidence of an option, subscription or other interest in or to a security,

(e) a bond, debenture, note or other evidence of indebtedness […]

(n) any investment contract, […]

[217] In *Pacific Coast Coin*, the Supreme Court of Canada established what constitutes an investment contract:

(a) an investment of money;

(b) with an intention or expectation of profit;

(c) in a common enterprise, in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those who solicit the investment or of third parties; and

(d) where the efforts made by those other than the investor are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise.

(*Pacific Coin Exchange of Canada Ltd. v. Ontario (Securities Commission)*, [1978] 2 S.C.R. 112 at pp. 128-129)

[218] The Commission has found that a participation agreement for the purpose of collectively pooling funds into managed forex trading accounts constituted an investment contract (*Re Lewis* (2011), 34 O.S.C.B. 11127 ("***Lewis***") at para. 240). Further, agreements characterized as "debentures" have been found to constitute investment contracts and the panel in that matter decided that the use of funds for forex trading did not preclude the application of the Act (*Re MP Global Financial Ltd.* (2011), 34 O.S.C.B. 8897 at para. 70).

[219] In this case, there is some indication that certain of the Respondents may seek to rely on the "accredited investor" exemption at subsection 2.3(1) of NI 45-106 from registration requirements found in section 25 of the Act. The definition of "accredited investor" is found at section 1.1 of NI 45-106 and includes:

> **"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, […]

[220] Once Staff has proven that the Respondents traded without registration, the onus shifts to the respondents to prove an exemption from registration requirements is available in the circumstances (*Limelight*, *supra* at para. 142, citing *Re Euston Capital Corp.* 2007 ABASC 75, *Re Lydia Diamond Exploration of Canada Ltd.* (2003), 26 O.S.C.B. 2511, and *Re Ochnik* (2006), 29 O.S.C.B. 3929).

2. Analysis

[221] I find that Blackett, 215 Inc., Smith, 177 Inc., the Rezwealth Respondents and the Tiffin Respondents traded in securities and/or engaged in acts in furtherance of trading securities without being registered to do so under the Act and without an exemption from registration being available to them, contrary to subsection 25(1)(a) of the Act, for conduct predating September 28, 2009, and contrary to subsection 25(1) of the Act, for conduct on and after September 28, 2009, and contrary to the public interest, for the reasons that follow.

(a) Blackett and 215 Inc.

[222] I find that the Blackett Investments, as described at paragraph 36 above, are investment contracts and constitute securities as defined under subsection 1(1)(n) of the Act. The fact that the Blackett Investment documents, entitled "Loan Agreement", characterized Blackett and/or 215 Inc. as the "borrower(s)" and investors as "lenders" does not detract from the true nature of the agreement as an investment arrangement. Investors understood that they were signing agreements to provide Blackett and 215 Inc. with money for Blackett to engage in forex trading and, as a result, investors would be entitled to receive a monthly or yearly rate of return on their investment. Therefore, the Blackett Investors made an investment with the expectation of profit, in which the returns were dependent upon the efforts and success of Blackett and 215 Inc., who solicited the investment, directly and indirectly through other respondents. The Blackett Investors did not contribute to profit generation, while Blackett's conduct was undeniably essential to the failure or success of the investment scheme.

[223] I received consistent and credible evidence of the Blackett Investments from investors, supported by documentary evidence, including 75 agreements signed by Blackett, on behalf of himself and/or 215 Inc. I find that during the Material Time, Blackett and 215 Inc. engaged in trades or acts in furtherance of trades, including:

- Blackett met with investors, including M.L.T. and D.D., to discuss the Blackett Investment;
- Blackett prepared the Blackett Investment documentation and provided it to investors for execution;
- Blackett and 215 Inc. obtained $3,018,649 from at least 56 Blackett Investors for the purpose of investing in the Blackett Investments; and

- Blackett and 215 Inc. had authority over the Blackett Accounts into which investor funds were deposited and from which Blackett directed the use of funds, including monthly payments to the Blackett Investors.

[224] It is clear from the evidence that Blackett actively solicited investors and sent documents and materials to Blackett Investors in furtherance of trades.

[225] Neither Blackett nor 215 Inc. was registered with the Commission during the Material Time. There is no evidence that any exemption from the registration requirement was available to them.

(b) Smith and 177 Inc.

[226] Having found that the Blackett Investments are investment contracts which constitute securities, as defined under subsection 1(1)(n) of the Act, trades in or acts in furtherance of trades of the Blackett Investments without registration would be conduct in breach of the Act.

[227] Despite having personally invested with Blackett, the evidence supports, and Smith admitted in his compelled testimony of August 12, 2010, that he and 177 Inc. committed acts in furtherance of trades. Specifically, I find that during the Material Time, Smith and 177 Inc. engaged in acts in furtherance of trades, including:

Smith referred at least 48 investors, including P.P., to Blackett and those investors collectively invested approximately $1.2 million in the Blackett Investments;

Smith met with potential investors and explained to some, including P.P., the features of the Blackett Investments;

Smith facilitated the execution of Blackett Investment documentation by some investors and the delivery of investors' cheques to Blackett;

177 Inc. facilitated monthly payments to investors from the end of 2008 until June 2009 through its bank account, under the direction of Smith;

Smith received a ten percent referral fee, which amounts to a commission, on each investment he referred to Blackett; and

177 Inc. received $41,150.00 as a service fee for facilitating monthly payments to investors.

[228] Smith submitted that referring clients is not a trade. In the circumstances, I find that the "referrals" of investors, for which Smith received compensation, were acts in furtherance of trades. The Blackett Investments constitute securities and Smith admitted that he received a fee of ten percent of each investment. Therefore, these acts in furtherance of trades fall within the definition of "trade" in subsection 1(1) of the Act.

[229] Neither Smith nor 177 Inc. was registered with the Commission during the Material Time. There is no evidence that any exemption from the registration requirement was available to them.

(c) The Rezwealth Respondents

[230] I find that the Rezwealth Investments, as described at paragraph 79 above, are investment contracts and constitute securities as defined under subsection 1(1)(n) of the Act. The fact that the Rezwealth Investment documents were entitled "Participation Agreement", "Subscription Form for Participating Debenture", "Promissory Note" and "Unsecured Debenture", does not diminish that all the agreements were used for the same purpose – investment. Investors understood that they were signing agreements to provide the Rezwealth Respondents with money for Rezwealth to invest in various projects, including forex trading by Blackett. In return, Rezwealth offered various rates of return on the Rezwealth Investment, as determined by Ms. Ramoutar, on behalf of Rezwealth. Therefore, the Rezwealth Investors made an investment with the expectation of profit, in which the returns were dependent upon the efforts and success of Rezwealth and its representatives or associates. Rezwealth's representatives solicited the investment, directly and indirectly through the Tiffin Respondents. The Rezwealth Investors did not contribute to profit generation, while Rezwealth and Ms. Ramoutar's conduct was undeniably essential to the failure or success of the investment scheme.

[231] As noted above, there are a number of activities which constitute acts in furtherance of a trade. Providing subscription agreements for investors to execute, distributing promotional materials, and meeting with individual investors for the purpose of soliciting or enabling investment can constitute "trading" within the meaning of the Act.

[232] The evidence supports a finding that the Rezwealth Respondents traded and/or committed acts in furtherance of trades of the Rezwealth Investments, including 56 agreements between Rezwealth and investors. Ms. Ramoutar made a number of

admissions under cross examination, and Mr. Ramoutar made certain admissions in his compelled examination of January 28, 2010 which corroborate and confirm their conduct with respect to the Rezwealth Investments. Specifically, I find that during the Material Time the Rezwealth Respondents engaged in the following trades and/or acts in furtherance of trades, including:

- Ms. Ramoutar, Mr. Ramoutar, and other representatives of Rezwealth, met with investors, including J.R., C.G. and S.L. to discuss the Rezwealth Investment and provided investors with documentation to execute for that purpose;
- Mr. Ramoutar helped design and was responsible for the approval of the Rezwealth brochure, which guaranteed returns on the Rezwealth Investments and was disseminated to potential investors;
- Rezwealth obtained $2,910,305 from at least 45 Rezwealth Investors for the purpose of investing in the Rezwealth Investments;
- Ms. Ramoutar and Mr. Ramoutar accepted investor funds for the purpose of investing in the Rezwealth Investments, including from J.R. and S.L.;
- Investor funds were deposited into the Rezwealth Account, to which Ms. Ramoutar and Chris Ramoutar were the only signatories;
- Rezwealth pooled investor funds in the Rezwealth Account and provided $575,175 to Blackett and 215 Inc. for forex trading;
- Rezwealth received a five percent, and later ten percent, referral fee on each investment it referred to Blackett; and
- Ms. Ramoutar directed the use of investor funds from the Rezwealth Account, including making monthly payments to investors in the Rezwealth Investments;

[233] As stated above, the referral of clients in these circumstances and based on the evidence is an act in furtherance of trade.

[234] None of Rezwealth, Ms. Ramoutar or Mr. Ramoutar was registered with the Commission during the Material Time.

[235] In August 2009, Rezwealth Investors were asked to fill in new documentation to replace previous agreements entered into for the purpose of making Rezwealth Investments. The new documents appended “accredited investor” forms. No reliable evidence was provided at the Merits Hearing that would support a finding that any of the Rezwealth Investors qualified as accredited investors at the time they invested. Further, the Rezwealth Respondents made no submissions on the application or availability of the accredited investor exemption in the circumstances. In the absence of sufficient evidence on the issue and noting that the onus is on the Respondents who traded without registration to prove the availability of an exemption from registration requirements in the circumstances, I do not find that the Rezwealth Respondents had the accredited investor exemption available to them. There is no evidence that any other exemption from the registration requirement was available to them.

[236] Ms. Ramoutar testified at the Merits Hearing that Mr. M. was representing Rezwealth as its lawyer and that she relied on his advice. Ms. Ramoutar also acknowledged that Mr. M. was not a lawyer and she took no steps to ascertain whether or not he was properly qualified. It appears from Mr. Ramoutar’s submissions that he too was advancing a defence of reliance on legal advice. I agree with Staff’s submissions that legal advice is only relevant in cases where a due diligence defence is available (*Re YBM Magnex Inc.* (2003), 26 O.S.C.B. 5285 at paras. 246 and 254; *Re CTC Crown Technologies Corp.* (1998), 8 A.S.C.S. 1940 at pp. 7-9). A due diligence defence is not available to respondents who have traded in securities without registration or distributed securities without a prospectus. I concur with the Commission’s decision in *Sabourin* that there is no need for me to determine a respondent’s motive, knowledge, intention or belief in order to determine whether that respondent traded in breach of the Act or contravened section 53 of the Act (*Re Sabourin* (2009), 32 O.S.C.B. 2707 at paras. 68-69).

(d) The Tiffin Respondents

[237] Having found that the Rezwealth Investments are investment contracts which constitute securities, as defined under subsection 1(1)(n) of the Act, trades in or acts in furtherance of trades of the Rezwealth Investments without registration would be conduct in breach of the Act.

[238] I accept the admissions made by the Tiffin Respondents in the Agreed Facts and find that the following conduct constitutes acts in furtherance of trades of the Rezwealth Investments:

- Tiffin Respondents solicited Ontario residents to invest in the Rezwealth Investments;
- Tiffin Respondents promoted the Rezwealth Investments via email and on Tiffin Financial's website;
- Tiffin, as a representative of Tiffin Financial, met with investors, to discuss features of the Rezwealth Investment, assisted some investors with the execution of documentation for that purpose and facilitated payments of some of the investors' funds to Rezwealth;
- Tiffin Respondents directly referred eight investors and indirectly referred 11 further investors to Rezwealth, who collectively invested approximately $2 million; and
- Tiffin Respondents received a total of approximately $517,000 in referral fees.

[239] Neither of the Tiffin Respondents was registered with the Commission during the Material Time and no exemption was available to them.

3. Findings

[240] I conclude that the Blackett Investments and the Rezwealth Investments are securities. I find that the Respondents traded in those securities and/or engaged in acts in furtherance of trading those securities without being registered to do so under the Act and without an exemption from registration being available to them, contrary to subsection 25(1)(a) of the Act, for conduct predating September 28, 2009, and subsection 25(1) of the Act, for conduct on and after September 28, 2009. I find the Respondents' conduct in this respect to be contrary to the public interest.

B. Did the Respondents distribute securities without a prospectus, contrary to subsection 53(1) of the Act and contrary to the public interest?

1. The Law

[241] Subsection 53(1) sets out the prospectus requirement under the Act:

> **53. (1) Prospectus required** – 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.

[242] The prospectus is the primary disclosure document of an issuer for the benefit and protection of investors. In accordance with section 56 of the Act, a prospectus must provide "full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed".

[243] The Commission has acknowledged that the prospectus requirement is fundamental to the protection of the investing public because it ensures investors have full, true and plain disclosure to properly assess investment risk and make an informed decision. The panel in Limelight articulated:

> The requirement to comply with section 53 of the 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 p. 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. 80)

[244] A "distribution" is defined in subsection 1(1) of the Act and includes "a trade in securities of an issuer that have not been previously issued."

[245] Exemptions from the prospectus requirement are provided in NI 45-106 and include, among others, exemptions for a trade in a security if the purchaser is an accredited investor. There is some indication that the Rezwealth Respondents may seek to rely upon the "accredited investor" exemption from prospectus requirements that existed during the Material Time, as provided in subsection 2.3(2) of NI 45-106. The definition of "accredited investor" is found at section 1.1 of NI 45-106 and is substantially the same as the language articulated at paragraph 219 above.

[246] Again, once Staff has proven that the Respondents distributed shares without qualifying the shares under a prospectus, the onus shifts to the Respondents to prove an exemption from prospectus requirements is available in the circumstances (*Limelight*, *supra* at para. 142, citing *Re Euston Capital Corp.* 2007 ABASC 75, *Re Lydia Diamond Exploration of Canada Ltd.* (2003), 26 O.S.C.B. 2511, and *Re Ochnik* (2006), 29 O.S.C.B. 3929).

2. Analysis

[247] As decided above, the Respondents traded in the Blackett Investments and the Rezwealth Investments. For the trades to constitute distributions of those securities they must not have been previously issued. There is no evidence that the Blackett Investments or the Rezwealth Investments had been previously issued. In fact, the Blackett Investments and Rezwealth Investments were frequently created on an *ad hoc* basis upon confirmation by the investor that he or she wanted to invest with 215 Inc. or Rezwealth. I heard from various investors that the agreements were created and executed by certain of the Individual Respondents on behalf of 215 Inc. and Rezwealth on the day that the investors decided to provide funds for their investment. Therefore, the Blackett Investments and the Rezwealth Investments were previously unissued securities and trades and/or acts in furtherance of trades in those securities constitute a distribution within the meaning of the Act.

[248] Documentary evidence confirms that during the Material Time neither 215 Inc. nor Rezwealth was a reporting issuer. Further, no preliminary prospectus or prospectus in respect of Blackett Investments or the Rezwealth Investments was filed with the Commission during the Material Time, and no receipts in respect of a preliminary prospectus or prospectus for those securities were issued by the Director.

[249] As articulated at paragraph 236 above, I do not accept that a due diligence defence is available to the Rezwealth Respondents for allegations that they distributed securities without a prospectus, contrary to subsection 53(1) of the Act.

[250] As discussed above, while there was some evidence that the Rezwealth Respondents purported to rely on the accredited investor exemption, no such exemption was available to them. For the same reasons set forth in paragraph 235, the accredited investor exemption from the prospectus requirement of subsection 53(1) of the Act is not available to the Rezwealth Respondents. There is no evidence that any other exemption from the prospectus requirement was available to the Respondents in respect of the distribution of the previously unissued Blackett Investments and Rezwealth Investments.

3. Findings

[251] I conclude that the Respondents engaged in trades or acts in furtherance of trades. At the time of these trades, the Blackett Investments and the Rezwealth Investments, which were then traded, had not previously been issued, and I therefore conclude that the trades constitute a distribution. Since no prospectus was filed for these securities, I find that the Respondents have contravened subsection 53(1) of the Act, as there was no exemption available to the Respondents. I further find that such contraventions were contrary to the public interest.

C. Did 215 Inc., Blackett, Rezwealth, Ms. Ramoutar and Mr. Ramoutar engage or participate in acts, practices or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest?

1. The Law

[252] Subsection 126.1(b) of the Act sets out the fraud provision as follows:

> **126.1 Fraud and market manipulation** – 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.

[253] It is well established, by previous Commission decisions, that the elements of fraud under subsection 126.1(b) of the Act are:

> … 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).

(*R. v. Théroux*, [1993] 2 S.C.R. 5 ("***Théroux***") at 21; *Re Al-Tar Energy Corp. (*2010), 33 O.S.C.B. 5535 ("***Al-Tar Energy***") at paras. 216-221)

[254] In *Anderson v. British Columbia (Securities Commission)* (2004), 192 B.C.A.C. 119 (leave to appeal to the Supreme Court of Canada denied) ("***Anderson***"), the British Columbia Court of Appeal discussed the mental element of the fraud provision in the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418, as amended (the "**BC Act**") and stated:

> … [the fraud provision of the BC Act] does not dispense with the requirement that there must be a fraud involved in the transaction, which requires a guilty state of mind. … [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.
>
> (*Anderson*, *supra* at paras. 24 and 26)

As the fraud provision of the BC Act has identical operative language to section 126.1 of the [Ontario] Act, the Commission has adopted the analysis in Anderson in cases involving subsection 126.1(b) of the Act (*Al-Tar Energy*, *supra* at para. 218).

[255] The Commission has also recognized that, for a corporation, it is sufficient to show that its directing minds knew that the acts of the corporation perpetrated a fraud to prove breach of subsection 126.1(b) of the Act (*Al-Tar Energy*, *supra* at para. 221; *Lewis*, *supra* at 230; *Re Global Partners* (2010), 33 O.S.C.B. 7783 ("***Global Partners***") at para. 245).

[256] Courts and tribunals have concluded that non-disclosure of important facts, such as concealment from an investor of material information on a risk to his or her investment is an example of a fraudulent act (*Théroux*, *supra* at 16; *Anderson*, *supra* at para. 30). In addition, unauthorized diversion of funds, use of corporate funds for personal purposes, unauthorized arrogation of funds or property are also examples of fraudulent acts (*Théroux*, *supra* at 16).

[257] In *Lewis*, the Commission decided that diversion of investor funds for purposes other than forex investments, transferring significant sums of investor funds to oneself without explanation and deceiving investors by telling them they were earning monthly profits constituted evidence of the *actus reus* of fraud (*Lewis*, *supra* at para. 231). Other Commission decisions have also found that use of investor funds for personal rather than legitimate business purposes is fraudulent conduct (*Global Partners* at para. 312; *Re Hibbert* (2012), 35 O.S.C.B. 8583 at paras. 98 and 101).

[258] It should be noted that the second element of the actus reus of fraud is deprivation. The element of deprivation may be satisfied by actual loss to the investor, prejudice to an investor's economic interest or the risk of prejudice to the economic interest of the investor (*Théroux*, *supra* at 15-16; *Lewis*, *supra* at 226). Therefore, no actual economic loss is necessary for conduct to be found fraudulent.

[259] In respect of the mental element of fraud, the Commission is conscious that the legislature statutorily widened the scope of the prohibition against fraud by imposing liability where a respondent "reasonably ought to have known" that their conduct perpetrates a fraud. Subjective knowledge that a prohibited act could have as a consequence the deprivation of another is established when it is determined that the respondent "knowingly undertook the acts in question, aware that deprivation, or the risk of deprivation, could follow as a likely consequence" or was reckless as to the consequences (*Théroux*, *supra* at 20-21).

2. Analysis

[260] Blackett, 215 Inc. and the Rezwealth Respondents deceived investors. I find that Blackett, 215 Inc., Rezwealth and Ms. Ramoutar participated in acts and engaged in courses of conduct relating to securities, which they knew or reasonably ought to have known perpetrated a fraud within the meaning of subsection 126.1(b) of the Act and contrary to the public interest and Mr. Ramoutar participated in acts and engaged in courses of conduct relating to securities, which he reasonably ought to have known perpetrated a fraud within the meaning of subsection 126.1(b) of the Act and contrary to the public interest

(a) Blackett and 215 Inc.

[261] I find that there is cogent evidence which establishes that Blackett and or 215 Inc. participated in acts and engaged in a course of conduct which can be described as deceitful, falsehoods or other fraudulent means resulting in deprivation to investors as follows:

- Blackett represented to investors that their funds would be used for forex trading, but only a fraction of the investor funds were ever transferred to forex entities;
- Blackett represented to investors that their monthly returns would be funded by profits of his forex trading, but the evidence indicates he received $27,540 back from forex entities, which was not sufficient to fund the $1,383,122 paid to investors during the same period;
- Blackett and 215 Inc. used investor funds from the Blackett Accounts for payments to other investors;
- Blackett and 215 Inc. used $705,254 from the Blackett Accounts for personal purposes including cash withdrawals, car payments, loan payments, payments to Blackett's mother and payments to retailers and a further $320,701 for credit card payments;
- Blackett told investors, including D.D. and Ms. Ramoutar, that he was unable to make monthly payments because his accounts had been frozen, but there is no evidence that any of the Blackett Accounts was frozen during the Material Time; and
- Blackett and 215 Inc.'s conduct has resulted in actual losses to investors, including approximately $1.6 million that has never been returned.

[262] I find that Blackett, on his own behalf and as the directing mind of 215 Inc., had subjective awareness that he and 215 Inc. were undertaking dishonest acts which could and did put investors' financial interests at risk, including:

- Blackett, as the directing mind of 215 Inc., created and was responsible for the Blackett Investments;
- Blackett controlled the Blackett Accounts, accepted investor funds into them and directed payments out of them;
- Blackett represented to investors that the investor funds would be used for forex trading, when he knew that the majority was not;
- Blackett represented to investors that monthly returns would be funded by profits of his forex trading, despite knowing that only $27,540 was received from forex entities while $1,383,122 was paid to investors out of the Blackett Accounts;
- Despite knowing that the vast majority of funds in the Blackett Accounts was investors funds, Blackett used at least $1,025,955 for personal purposes; and
- Blackett knew that none of the Blackett Accounts was frozen when he made representations to the contrary.

[263] In essence, Blackett, personally and through 215 Inc., formulated a fraudulent ponzi scheme, which was cultivated through misrepresentations and involved payments to early investors out of funds received from later investors. Furthermore, Blackett's diversion of a significant amount of investors' funds for personal purposes supports a finding that Blackett and 215 Inc. were aware that their actions placed investors' interests at risk. Blackett, and consequently 215 Inc., directly participated in acts and engaged in a course of conduct relating to securities, that they knew or reasonably ought to have known perpetrated a fraud on the Blackett Investors.

(b) The Rezwealth Respondents

[264] Ms. Ramoutar spent a great deal of time at the Merits Hearing testifying and making submissions on the proposition that it was Tiffin's idea to structure the investment scheme in such a way that Rezwealth would accept investor funds and direct their use to Blackett for forex trading. Further, Ms. Ramoutar submitted and called character evidence to support her argument that Tiffin had in fact taken control of Rezwealth during the Material Time. I was not persuaded on the evidence before me that Tiffin ever controlled the Rezwealth Investment scheme offered by Rezwealth and its representatives, including Ms. Ramoutar and Mr. Ramoutar. Nor do I accept the claims by Ms. Ramoutar and Mr. Ramoutar that their actions were reliant upon legal advice of Mr. M., a person whom Ms. Ramoutar admitted was not in fact a qualified lawyer and for whom she did not seek credentials. I have no evidence before me on the nature of the advice that was purportedly relied upon, no testimony from Mr.

M. and no information on whether or not the respondents made reasonable inquires. For the reasons that follow, I find that the Rezwealth Respondents engaged in a course of conduct that was fraudulent and which resulted in deprivation to investors.

[265] I find that there is compelling evidence establishing that the Rezwealth Respondents participated in acts and engaged in a course of conduct, which can be described as deceit, falsehoods or other fraudulent means resulting in deprivation as follows:

* Ms. Ramoutar hired a consultant to review Rezwealth's agreements, which resulted in Mr. Ramoutar assisting investors to complete replacement forms for their Rezwealth Investments, as an attempt to "repaper" investment contracts that had already been made and were not in compliance with the Act;

- The Rezwealth Respondents continued to solicit and/or accept new investments from July to December 2009, after Blackett had stopped making payments (the "2009 Period"), including from investors J.R., C.G. and S.L., without telling investors that Rezwealth was not making payments to or receiving payments from any forex traders;

- Although investors were told their funds would be used for forex trading, loans and other investments, Rezwealth used new investor funds to pay other investors in the 2009 Period;

- Rezwealth represented to investors, including M.L., J.R. and C.G., that their monthly payments in the 2009 Period were interest earned on their investments, despite the fact that they were made using investor funds;

- During the 2009 Period, payments totalling $206,063 were made from the Rezwealth Account to Ms. Ramoutar, Mr. Ramoutar and members of their family as well as cash withdrawals, despite that fact that Rezwealth had no significant sources of income, other than investor funds;

- Ms. Ramoutar, Mr. Ramoutar and representatives of Rezwealth told investors, including J.R. and C.G., that their principal was guaranteed when it was not; and

- The Rezwealth Respondent's conduct has resulted in actual losses of $2,239,111 to investors.

[266] I conclude that Ms. Ramoutar, on her own behalf and as the directing mind of Rezwealth, had subjective awareness that she and Rezwealth were undertaking dishonest acts which could and did put investors' financial interests at risk, including:

- Ms. Ramoutar, as the directing mind of Rezwealth, created and was responsible for the Rezwealth Investments;

- Ms. Ramoutar admitted that she made decisions to accept or refuse investors;

- Ms. Ramoutar controlled the Rezwealth Account, accepted investor funds into it and directed payments out;

- Despite knowing that Rezwealth was not receiving payments from or making payments to forex traders during the 2009 Period, Ms. Ramoutar continued to solicit and accept new investments without informing investors of Rezwealth's true state of affairs;

- Rezwealth continued to make monthly payments to investors after Rezwealth stopped receiving payments from forex traders, and represented to investors that these payments were interest earned on their investment and Ms. Ramoutar admitted that she knew that Rezwealth used investor funds to make payments to other investors;

- Despite knowing that investor funds were the main source of funds in the Rezwealth Account during the 2009 Period, Ms. Ramoutar permitted $206,063 from the Rezwealth Account to be used for payments to herself, Mr. Ramoutar, and members of her family, as well as cash withdrawals.

[267] I also find that Mr. Ramoutar, had subjective awareness because he reasonably ought to have known that that he was undertaking dishonest acts, which could and did put investors' financial interests at risk, including:

- Despite knowing that Rezwealth was not receiving payments from Blackett during the 2009 Period, Mr. Ramoutar continued to accept new investor funds during that time; and

- Mr. Ramoutar received at least $51,158 in payments from the Rezwealth Account during the 2009 Period, despite knowing that Rezwealth was not receiving payments from Blackett.

[268] Ms. Ramoutar was conscious of the fact that money was not coming into Rezwealth, but nevertheless she continued to use new investor funds to pay previous investors on the false representation that they were accruing interest on their Rezwealth Investments. As a signatory to the Rezwealth Account, she knew that Rezwealth had no significant sources of income, aside from investors' funds, during the 2009 Period and yet she continued to use funds from the Rezwealth Account for her personal benefit and for the benefit of her family members. Mr. Ramoutar admitted that he knew Blackett stopped making payments in March 2009 and yet by the 2009 Period he continued to accept funds and receive income from Rezwealth. Ms. Ramoutar and Rezwealth directly participated in acts and engaged in a course of conduct relating to securities, that they knew or reasonably ought to have known perpetrated a fraud on the Rezwealth Investors. Mr. Ramoutar participated in acts and engaged in conduct relating to securities, that he reasonably ought to have known perpetrated a fraud on the Rezwealth Investors.

3. Findings

[269] I conclude that Blackett, 215 Inc. and Rezwealth and Ms. Ramoutar participated in acts and engaged in courses of conduct relating to securities, which they knew or reasonably ought to have known perpetrated a fraud within the meaning of subsection 126.1(b) of the Act. I also find that Mr. Ramoutar participated in acts and engaged in a course of conduct relating to securities, which he reasonably ought to have known perpetrated a fraud within the meaning of subsection 126.1(b) of the Act. Their conduct in this respect was contrary to the public interest.

E. Did Blackett, Smith, Ms. Ramoutar, Mr. Ramoutar and/or Tiffin authorize, permit or acquiesce in non-compliance with Ontario securities law by the Corporate Respondents, such that they are deemed, pursuant to section 129.2 of the Act, to have not complied with Ontario securities law and to have acted contrary to the public interest?

1. The Law

[270] Under the Act, a director or officer or an individual who performs similar functions can be liable for breaches of securities law by a corporation. Section 129.2 of the Act states:

> **129.2 Directors and officers** – 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.

[271] 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).

[272] The Commission determined in *Momentas* that the threshold for a finding of liability against a director or officer under section 129.2 of the Act is low. Indeed, merely acquiescing in the conduct or activity in question will satisfy the requirement of liability. The *Momentas* panel discussed the threshold and defined the terms "authorize", "permit" and "acquiesce" as follows:

> 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)

[273] Section 129.2 of the Act attaches liability to directors and officers or individuals who perform similar functions (ie. a "*de facto*" director or officer) who authorize, permit or acquiesce in the non-compliance by a company, whether or not any proceedings have been commenced against the company itself.

2. Analysis

[274] Based on the evidence, I find that Blackett, Smith, Ms. Ramoutar and Tiffin authorized, permitted or acquiesced in non-compliance with Ontario securities law by 215 Inc., 177 Inc. Rezwealth and Tiffin Financial, respectively. I also conclude that Mr. Ramoutar permitted or acquiesced in non-compliance with Ontario securities law by Rezwealth.

[275] Corporate records indicate, and investor testimony confirms, that Blackett was the directing mind of 215 Inc. during the Material Time. Specifically, Blackett met with investors and signed investment agreements on behalf of 215 Inc. and had sole control over 215 Inc.'s bank account, into which investor funds were deposited. Accordingly, Blackett authorized, permitted or acquiesced in the commission of the violations of subsection 25(1)(a), for conduct predating September 28, 2009, subsection 25(1), for conduct on and after September 28, 2009, subsection 53(1) and subsection 126.1(b) of the Act by 215 Inc., and Blackett is deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest.

[276] Smith acknowledged that he was the only director of 177 Inc. that was involved with Blackett. Smith admitted that he authorized the facilitation of payments to the Blackett Investors through 177 Inc.'s bank account. Therefore, Smith authorized, permitted or acquiesced in the commission of the violations of subsection 25(1)(a), for conduct predating September 28, 2009, subsection 25(1), for conduct on and after September 28, 2009 and subsection 53(1) of the Act by 177 Inc., and Smith is deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest.

[277] Corporate records show, investor testimonies confirm and admissions made corroborate that Ms. Ramoutar was the directing mind and an officer and director of Rezwealth and Mr. Ramoutar was an officer and director of Rezwealth during the Material Time. Ms. Ramoutar met with investors and accepted their funds for investment on behalf of Rezwealth and had control over the Rezwealth Account into which investor funds were deposited. Mr. Ramoutar admitted to authorizing Rezwealth's promotional materials and the evidence supports that he provided direction to Rezwealth's consultant and he met with investors on behalf of Rezwealth. Accordingly, Ms. Ramoutar authorized, permitted or acquiesced in, and Mr. Ramoutar permitted or acquiesced in, the commission of the violations of subsection 25(1)(a), for conduct predating September 28, 2009, subsection 25(1), for conduct on and after September 28, 2009, subsection 53(1) and subsection 126.1(b) of the Act by Rezwealth, and Ms. Ramoutar and Mr. Ramoutar are deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest.

[278] In light of the evidence and admissions referred to above, I find that Tiffin, being the sole director and officer of Tiffin Financial, authorized, permitted or acquiesced in the commission of the violations of subsection 25(1)(a), for conduct predating September 28, 2009, subsection 25(1), for conduct on and after September 28, 2009 and subsection 53(1) of the Act by Tiffin Financial, and Tiffin is deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest.

3. Findings

[279] I conclude that Blackett authorized, permitted or acquiesced in non-compliance with Ontario securities law by 215 Inc. I also find that Smith authorized, permitted or acquiesced in non-compliance with Ontario securities law by 177 Inc. Further, Ms. Ramoutar authorized, permitted or acquiesced in non-compliance with Ontario securities law by Rezwealth and Mr. Ramoutar permitted or acquiesced in non-compliance with Ontario securities law by Rezwealth. Tiffin similarly authorized, permitted or acquiesced in non-compliance with Ontario securities law by Tiffin Financial. As a result, Blackett, Smith, Ms. Ramoutar, Mr. Ramoutar and Tiffin are deemed, pursuant to section 129.2 of the Act, to also have not complied with Ontario securities law and to have acted contrary to the public interest.

VI. CONCLUSION

[280] For the reasons given above, I conclude that:

(a) The Respondents traded in securities and/or engaged in acts in furtherance of trades in securities without having been registered under the Act to do so, contrary to subsection 25(1)(a), for conduct predating September 28, 2009 and subsection 25(1), for conduct on and after September 28, 2009, of the Act and contrary to the public interest;

(b) The Respondents engaged in an illegal distribution of securities contrary to subsection 53(1) of the Act and contrary to the public interest;

(c) 215 Inc., Blackett, Rezwealth and Ms. Ramoutar participated in acts and engaged in courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest;

(d) Mr. Ramoutar participated in acts and engaged in a course of conduct relating to securities that he reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(b) of the Act and contrary to the public interest;

(e) Blackett, as officer and director of 215 Inc., Smith, as officer and director of 177 Inc., Ms. Ramoutar, as officer and director of Rezwealth, and Tiffin, as officer and director of Tiffin Financial, authorized, permitted or acquiesced in non-compliance with the Act by the Corporate Respondents, respectively, and are deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act and such conduct is contrary to the public interest; and

(f) Mr. Ramoutar, as officer and director of Rezwealth, permitted or acquiesced in non-compliance with the Act by Rezwealth and is deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act and such conduct is contrary to the public interest.

[281] For the reasons outlined above, I will also issue an order dated July 17, 2013 which sets down the date for the hearing with respect to sanctions and costs in this matter. That order will also extend the temporary cease order of the Commission with respect to the Rezwealth Respondents, the Tiffin Respondents, 215 Inc. and Blackett, dated March 16, 2011, until the conclusion of the proceeding.

Dated at Toronto this 17th day of July, 2013.

“Edward P. Kerwin”

3.1.3 Global Consulting and Financial Services et al.

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES, GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP., MICHAEL CHOMICA, JAN CHOMICA and LORNE BANKS

SETTLEMENT AGREEMENT
BETWEEN STAFF AND LORNE BANKS

PART I – INTRODUCTION

1. By Notice of Hearing dated March 27, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 17, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Global Consulting and Financial Services, Global Capital Group ("Global Capital"), Crown Capital Management, Michael Chomica ("Chomica"), Jan Chomica and Lorne Banks ("Banks"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated March 27, 2013.

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

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated March 27, 2013 against Banks (the "Proceeding") in accordance with the terms and conditions set out below. Banks consents to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III – AGREED FACTS

Overview

4. This proceeding, as it relates to Banks, centres on Banks' solicitation of investors residing outside Canada as part of a fraudulent "advance-fee" scheme (the "Global Capital Scheme") operated from Ontario from approximately March 2010 to November 2010 (the "Material Time").

5. Chomica was the architect and directing mind of the Global Capital Scheme and he operated it from his residential apartment located on Bloor Street East in Toronto (the "Bloor Street Address"). Banks worked under Chomica's direction and both Banks and Chomica solicited investors in connection with the Global Capital Scheme, by telephone and email, from the Bloor Street Address.

6. A total of USD $160,470 was raised from at least 5 investors in connection with the Global Capital Scheme.

7. Banks personally received approximately $25,000 from Chomica for his activities in soliciting investors.

8. On November 3, 2010, Staff executed a search warrant on the Bloor Street Address halting the scheme.

9. Banks is a resident of Ontario.

10. Banks was registered as a salesman/salesperson with the Commission from August 30, 1983 to November 15, 1988 and from November 22, 1988 to February 28, 1991 when his registration was revoked pursuant to an Order of the Commission made in connection with a settlement agreement between Banks and Staff.

11. None of Banks, Chomica or Global Capital was registered with the Commission in any capacity during the Material Time.

The Global Capital Scheme

12. During the Material Time, from the Bloor Street Address, Chomica and Banks, using aliases and purporting to act on behalf of Global Capital Group ("Global Capital"), contacted shareholders in Dixon, Perot & Champion Inc. residing in Europe, the United Kingdom, Asia and Africa (the "DP&C Shareholders") for the purpose of inducing them to make various payments as part of the Global Capital Scheme.

13. Banks and Chomica, purportedly on behalf of Global Capital, presented the DP&C Shareholders with an offer to exchange their shares in Dixon, Perot & Champion Inc. (the "DP&C Shares") for shares in Microsoft Inc. (the "Microsoft Shares"). The DP&C Shares were virtually worthless and illiquid at the time of the solicitations, however, Banks and Chomica told the DP&C Shareholders that Global Capital valued them at prices ranging from USD $6 to $14. Whereas the Microsoft Shares were valued at prices ranging from USD $24 to $27.

14. As part of the Global Capital Scheme, Chomica and Banks informed the DP&C Shareholders that they had to make certain up-front payments in order to complete the transactions and obtain the Microsoft Shares. First, Banks and Chomica told the DP&C Shareholders that up-front payments were necessary to cover the difference in value between the DP&C Shares and the Microsoft Shares. However, once this initial payment was made, Banks and Chomica solicited the DP&C Shareholders for additional payments purportedly to cover taxes and various other costs.

15. The DP&C Shareholders were instructed to send the funds to the account of Commonwealth Capital Corp. ("Commonwealth"), an Isle of Man corporation, at the Bank of Nevis in St. Kitts and Nevis (the "Commonwealth Bank Account"). During the Material Time, Chomica controlled the Commonwealth Bank Account.

16. At least five Global Capital Investors paid advance-fees totalling USD $160,470 to the Commonwealth Bank Account as a result of the solicitations noted above.

17. The majority of the funds transferred to the Commonwealth Bank Account by the Global Capital Investors were then transferred to accounts in the name of Global Consulting and Financial Services (the "Global Consulting Bank Accounts"). The majority of the funds deposited into the Global Consulting Bank Accounts were withdrawn as cash. During the Material Time, transactions in the Global Consulting Bank Accounts were carried out at Chomica's direction.

18. The offer to exchange the DP&C Shareholders' shares and the subsequent communications were part of an artifice designed solely to extract money from the DP&C Shareholders.

19. The purported exchange of the DP&C Shareholders' shares never occurred, the DP&C Shareholders never received any Microsoft Shares and instead suffered a complete loss of the amounts paid towards the advance fees.

20. Banks used an alias when corresponding with the DP&C Shareholders and he knowingly made false and deceitful representations to the DP&C Shareholders for the purpose of inducing them to send funds to the Commonwealth Bank Account. Further, Banks knew that by engaging in this conduct he was likely to cause a deprivation to the DP&C Shareholders.

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

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

(a) During the Material Time, Banks traded in and engaged in and held himself out as engaging in the business of trading in securities without being registered to trade in securities, contrary to subsection 25(1) of the Act and contrary to the public interest; and

(b) During the Material Time, Banks engaged or participated in acts, practices or a course of conduct relating to securities that he knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(b) of the Act and contrary to the public interest.

22. Banks admits and acknowledges that he acted contrary to the public interest by contravening Ontario securities law as set out in sub-paragraphs 21 (a) and (b) above.

PART V – TERMS OF SETTLEMENT

23. Banks agrees to the terms of settlement listed below.

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

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Banks cease permanently from the date of the approval of the Settlement Agreement;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Banks is prohibited permanently from the date of the approval of the Settlement Agreement;

(d) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Banks permanently from the date of the approval of the Settlement Agreement;

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

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

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

(h) pursuant to clause 10 of subsection 127(1) of the Act, Banks shall disgorge to the Commission the amount of $25,000 obtained as a result of his non-compliance with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(i) pursuant to clause 9 of subsection 127(1) of the Act, Banks shall pay an administrative penalty in the amount of $50,000 for his failure to comply with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(j) pursuant to subsection 37(1) of the Act, Banks is prohibited permanently, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(k) Notwithstanding the provisions of paragraph 24 herein, once Banks has fully satisfied the terms of sub-paragraphs (h) and (i) above, Banks shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer.

25. Banks undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in sub-paragraphs 24 (b) to (g) and (j) above.

PART VI – STAFF COMMITMENT

26. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Banks in relation to the facts set out in Part III herein, subject to the provisions of paragraph 27 below.

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

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

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

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

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

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

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

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

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

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

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

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

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

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

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

Signed in the presence of:

"Winnifred Lynn Holden"
Witness:

Dated this 3rd day of July, 2013

"Lorne Banks"
Lorne Banks

Dated this 3rd day of July, 2013

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

Dated this 4th day of July, 2013

SCHEDULE "A"

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA and
LORNE BANKS

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
LORNE BANKS

ORDER
(Sections 37 and 127(1))

WHEREAS by Notice of Hearing dated March 27, 2013, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on April 17, 2013, pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make orders, as specified therein, against Global Consulting and Financial Services, Global Capital Group, Crown Capital Management, Michael Chomica, Jan Chomica and Lorne Banks ("Banks"). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission ("Staff') dated March 27, 2013;

AND WHEREAS Banks entered into a settlement agreement with Staff dated _____, 2013 (the "Settlement Agreement") in which Banks agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated March 27, 2013, subject to the approval of the Commission;

WHEREAS on _____, 2013, the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, and the Statements of Allegations of Staff, and upon hearing submissions from Banks and from Staff;

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

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Banks cease permanently from the date of the approval of the Settlement Agreement;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Banks is prohibited permanently from the date of the approval of the Settlement Agreement;

(d) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Banks permanently from the date of the approval of the Settlement Agreement;

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

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

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

(h) pursuant to clause 10 of subsection 127(1) of the Act, Banks shall disgorge to the Commission the amount of $25,000 obtained as a result of his non-compliance with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(i) pursuant to clause 9 of subsection 127(1) of the Act, Banks shall pay an administrative penalty in the amount of $50,000 for his failure to comply with Ontario securities law, such amount to be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) (i) or (ii) of the Act;

(j) pursuant to subsection 37(1) of the Act, Banks is prohibited permanently, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(k) Notwithstanding the provisions of this Order, once Banks has fully satisfied the terms of sub-paragraphs (h) and (i) above, Banks shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer.

DATED at Toronto this _____ day of _____, 2013.

3.1.4 TD Securities Inc. et al. – ss. 8(3), 27.1

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

AND

IN THE MATTER OF
AN APPLICATION FOR A HEARING AND REVIEW OF A DECISION OF A HEARING PANEL
OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

IN THE MATTER OF
THE UNIVERSAL MARKET INTEGRITY RULES

AND

IN THE MATTER OF
TD SECURITIES INC., KENNETH NOTT, AIDIN SADEGHI,
CHRISTOPHER KAPLAN, ROBERT NEMY and JAKE POULSTRUP

REASONS AND DECISION
(Section 27.1 and Subsection 8(3) of the Act)

Hearing:	December 12 and 13, 2011		
Decision:	July 19, 2013		
Panel:	Mary G. Condon	–	Vice-Chair and Chair of the Panel
	Judith N. Robertson	–	Commissioner
Appearances:	James D. G. Douglas Charles Corlett	–	For Staff of the Investment Industry Regulatory Organization of Canada
	R. Paul Steep René R. Sorell Shane C. D'Souza	–	For TD Securities Inc.
	Derek J. Ferris	–	For Staff of the Commission

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REASONS AND DECISION

I. OVERVIEW

A. Background

[1] On December 12 and 13, 2011 a hearing was held before the Ontario Securities Commission (the "**Commission**") to consider an Application (the "**Application**") brought by staff of the Investment Industry Regulatory Organization of Canada ("**IIROC**") ("**IIROC Staff**") for a hearing and review of the decision of a hearing panel of IIROC's Ontario District Council (the "**IIROC Hearing Panel**") released on November 30, 2010 and revised April 30, 2011 (the "**Decision**"), pursuant to sections 8 and 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

[2] The Decision relates to allegations made by IIROC Staff against TD Securities Inc. ("**TDSI**"), Kenneth Nott ("**Nott**"), Aidin Sadeghi ("**Sadeghi**"), Christopher Kaplan ("**Kaplan**"), Robert Nemy ("**Nemy**") and Jake Poulstrup ("**Poulstrup**"). In its Decision, the IIROC Hearing Panel found that, during the period from May 2005 to October 2005, Nott, Nemy, Sadeghi, Kaplan and Poulstrup (the "**TDSI Traders**") entered artificial closing bids contrary to Universal Market Integrity Rules ("**UMIR**") Rule 2.2 and Policy 2.2. The IIROC Hearing Panel dismissed the allegations that TDSI failed to comply with its trading supervision obligations contrary to UMIR Rule 7.1 and Policy 7.1.

[3] IIROC Staff requests an order setting aside the IIROC Hearing Panel's Decision with respect to the allegations against TDSI and making a finding that, between May 2005 and October 2005, TDSI failed to comply with its trading supervision obligations contrary to UMIR Rule 7.1 and Policy 7.1.

[4] These are our Reasons and Decision on IIROC Staff's Application.

B. The Parties

(a) IIROC Staff

[5] IIROC Staff initially brought allegations of failure to comply with UMIR Rules and Policies against TDSI and the TDSI Traders in the proceeding heard before the IIROC Hearing Panel. IIROC Staff now applies for a hearing and review of the IIROC Hearing Panel's decision to dismiss IIROC Staff's allegations against TDSI.

(b) TDSI

[6] TDSI is a registered investment dealer and IIROC member and carries on an integrated securities business, which includes trading on the Toronto Stock Exchange, the TSX Venture Exchange, the NEX Market Place and other market places. During the time in question, TDSI employed the TDSI Traders.

(c) OSC Staff

[7] Staff of the Commission ("**OSC Staff**") is also a party to proceedings brought pursuant to subsection 8(3) and section 21.7 of the Act.

(d) Other Respondents to the IIROC Proceeding

[8] The five individual respondents to the IIROC proceeding were all proprietary traders in the Trade Execution Group ("**TEG**") at TDSI. Sadeghi, Kaplan, Nemy and Poulstrup worked at the Burlington branch of TDSI and Nott worked at TDSI's main branch in Toronto. IIROC's Application is with respect to the IIROC Hearing Panel's findings on the allegations against TDSI only, and not with respect to its findings against the TDSI Traders. The TDSI Traders did not participate in this hearing and review.

C. IIROC Staff's Application for a Hearing and Review

[9] IIROC Staff applied for a Hearing and Review of the IIROC Hearing Panel's Decision in a disciplinary proceeding against TDSI and the TDSI Traders. As noted above, the IIROC Hearing Panel made findings against the TDSI Traders, but dismissed the allegations against TDSI. IIROC Staff now seek an order setting aside the decision of the IIROC Hearing Panel with respect to the allegations against TDSI and making a finding that between May 2005 and October 2005 TDSI failed to comply with its trading supervision obligations, contrary to UMIR Rule 7.1 and Policy 7.1.

[10] Pursuant to the Application, IIROC Staff contends that the IIROC Hearing Panel made the following errors in its Decision:

(a) The IIROC Hearing Panel overlooked or misapprehended material evidence in three respects:

i. The IIROC Hearing Panel overlooked or misapprehended evidence that demonstrates TDSI was not adequately reviewing for artificial closing bids.

ii. The IIROC Hearing Panel overlooked evidence that TDSI condoned, or encouraged, the entry of artificial closing bids.

iii. The IIROC Hearing Panel misapprehended the evidence of the TDSI representatives about what they considered manipulative activity and the indicia of manipulative activity.

(b) The IIROC Hearing Panel erred in law or proceeded on an incorrect principle by adopting as an explanation for why TDSI did not prevent or detect the artificial closing bid activity that TDSI made an "honest but erroneous interpretation of UMIR".

D. The IIROC Hearing Panel's Decision

[11] The IIROC Hearing Panel considered allegations by IIROC Staff that over the course of the period from May 1 to October 31, 2005, the TDSI Traders breached UMIR Rule 2.2(2)(b) by entering high closing bids without any intention that the orders would be executed and for no bona fide purpose and that TDSI failed to comply with its trading supervision obligations contrary to UMIR Rule 7.1 and UMIR Policy 7.1.

(a) Conduct of the TDSI Traders

[12] In the Decision, the IIROC Hearing Panel first analyzed the evidence with respect to the conduct of each of the TDSI Traders in their trading of one or more of five stocks, African Copper PLC ("**ACU**"), Canaco Resources Inc. ("**CAN.H**" or "**CAN**"), Central Canada Foods Corporation ("**CDF.A**"), Peterborough Capital Corp. ("**PEC**") and Titanium Corporation Inc. ("**TIC**"). The IIROC Hearing Panel ruled that bidding within the context of the market (*i.e.* bidding at prices at or below the last trade price or the highest intraday trade price) for the purpose of maintaining a closing bid price, with no *bona fide* intention to purchase the securities, constitutes an "artificial closing bid" contrary to UMIR Rule 2.2 and Policy 2.2 and found that, with respect to the allegations against the TDSI Traders:

(a) Nott entered a total of 230 artificial closing bids in ACU, CAN.H/CAN, CDF.A and PEC;

(b) Sadeghi entered a single artificial closing bid in PEC and two artificial closing bids in CDF.A, none of which were found to be part of a pattern of entering artificial closing bids. The IIROC Hearing Panel dismissed allegations that Sadeghi entered additional artificial closing bids in CDF.A and that he entered artificial closing bids in ACU and TIC;

(c) Nemy entered 39 artificial closing bids in TIC with the improper intention of maintaining the value of TIC. Allegations that Nemy entered 40 other artificial closing bids in TIC were dismissed;

(d) Poulstrup entered 14 artificial closing bids in TIC with the improper intention of maintaining the value of TIC. The IIROC Hearing Panel dismissed allegations that Poulstrup entered 13 other artificial closing bids for TIC and allegations that he entered two artificial closing bids for CAN; and

(e) Kaplan entered 19 artificial closing bids in CAN late in the trading day and 18 artificial closing bids in CAN earlier in the trading day (IIROC Staff had alleged that he entered a total of 57 artificial closing bids in CAN). The IIROC Hearing Panel dismissed allegations that Kaplan entered four artificial closing bids in CDF.A and PEC.

(b) Supervision by TDSI

[13] Having made the above findings with respect to the TDSI Traders, the IIROC Hearing Panel then considered the allegations that TDSI failed to comply with its trading supervision obligations contrary to UMIR Rule 7.1 and UMIR Policy 7.1 by reason of:

(a) failure to adopt trading supervision policies and procedures that were adequate, taking into account its business affairs and the risks associated therewith;

(b) failure to adequately address the risks associated with the TDSI Burlington office;

(c) failure of supervisory practices and procedures; and

(d) failure to adequately review and monitor order entry activity.

[14] The IIROC Hearing Panel analyzed each of the four alleged failures to comply with UMIR Rule 7.1 and Policy 7.1 and dismissed all allegations against TDSI. The IIROC Hearing Panel considered evidence of TDSI's trading supervision policies and procedures, the practices of the trade desk supervisors and the Compliance Department, the hiring and training of TDSI traders, including those located in the Burlington office, the availability of automated systems and tools to facilitate the monitoring tasks and how they were used and in particular, evidence of the Acting Chief Compliance Officer, Mathew Cooper ("**Cooper**") and the evidence of supervision by two individuals at TDSI, Robert Dingwall ("**Dingwall**"), Vice-President and Director of the TEG, and Ray Tucker ("**Tucker**"), Managing Director of the TEG, both of whom worked out of TDSI's Toronto office.

[15] With respect to the allegation that TDSI failed to adopt adequate trading supervision policies and procedures, the IIROC Hearing Panel found that during the period in question "TDSI implemented written policies and procedures that covered its entire business to ensure compliance with UMIR Rules and UMIR Policy including the Rules and Policy governing market manipulation" (Decision at para. 407), and noted that TDSI's supervision and compliance system was consistent with industry standards and practice (Decision at para. 408).

[16] The IIROC Hearing Panel was also not satisfied that TDSI failed to adequately address the risks associated with the Burlington office, where four of the five TDSI Traders worked (Decision at paras. 413 to 422).

[17] The IIROC Hearing Panel characterized the crux of the allegation against TDSI with respect to failure of its supervisory practices and procedures as being that there was no procedure systematically employed by the TDSI trade desk supervisors for reviewing bids placed late in the day, except on a 'random' basis. The IIROC Hearing Panel considered TDSI's real time trade desk supervision of the proprietary traders, time spent by TDSI trade desk supervisors on considering the profit and loss position of the proprietary traders, the tools and software available to facilitate the monitoring, the volume of trading information from which manipulative bids and trades would be discerned and the difficulty of identifying artificial closing bids in real time. The IIROC Hearing Panel emphasized that they relied on the pattern of bidding by the proprietary traders as a factor in concluding that there had been artificial closing bids. Ultimately, the IIROC Hearing Panel found that "... the random review approach employed by Dingwall and Tucker was reasonable and realistic" (Decision at para. 441) and dismissed the allegation of a failure of supervisory practices and procedures.

[18] With respect to the final allegation against TDSI, that TDSI failed to adequately review and monitor order entry activity, as evidenced by the response of the trade desk supervisors to the trading activities of Nott as well as the lack of identification of trading improprieties in CDF.A and TIC, the IIROC Hearing Panel noted that this allegation overlapped with the previous allegation regarding supervisory practices and procedure. It applied that analysis and conclusion to consideration of this allegation. In addition, the IIROC Hearing Panel reviewed the specific "criticisms" with regard to TDSI's monitoring of Nott, CDF.A and TIC. It found that "TDSI deserves credit, not criticism" for its monitoring of Nott and CDF.A and that the circumstances surrounding TIC were "understandable" (Decision, *supra* at paras. 447 and 454). As a result, the IIROC Hearing Panel dismissed this allegation.

(c) Discussion of the "October 2005 Analysis" in the IIROC Hearing Panel's Decision

[19] After dismissing the allegations that TDSI did not comply with its obligations under UMIR Rule 7.1 and Policy 7.1, the IIROC Hearing Panel ends the Decision with a section entitled "Discussion of the October 2005 Analysis" (the "**Discussion**"), The "**October 2005 Analysis**" refers to an analysis completed by TDSI's Acting Chief Compliance Officer, Cooper, in July 2006 based on a re-creation of the October 2005 market data and tests relating to late bids.

[20] The Discussion begins with a reference to "the fundamental flaw in the TDSI compliance monitoring system" (Decision, *supra* at para. 457). It concludes with the following paragraphs,:

This approach to bidding explains why Dingwall and Tucker would not be concerned when a late bid triggered the Watch List. All of Nemy's late bids in TIC were less than the price of the last trade (which they could easily see) and therefore in the context of the market.

> Cooper did not develop a trading system. He analysed the existing trading system. His analysis confirms Nott's evidence that maintaining the price of a stock by bidding within the context of the market was the accepted standard at TDSI and not high closing.
>
> Dingwall and Tucker did not detect the late bids IIROC Staff says should have been identified because they were using an alert system that was different than the alert system prescribed by IIROC. The reason for the different alert systems was an honest but erroneous interpretation of UMIR Policy.
>
> The process of interpretation of the UMIR Rules and UMIR Policy is not something that happens overnight. The decision of this Panel is an important step in that process. The approach to bidding set out in these reasons closes the book on the practice of bidding within the context of the market in order to maintain the value of a stock and opens a new book of bidding in accordance with true market supply and demand.
>
> (Decision at paras. 462 to 465)

[21] The content of these paragraphs, appearing in the Decision subsequent to the analysis of the allegations against TDSI, are significant for purposes of the present Application. Accordingly, we have reproduced them in paragraph [20].

II. THE ISSUES

[22] In considering IIROC Staff's Application, we address the following issues:

(a) What is the Commission's jurisdiction to intervene in this matter?

(b) Are there grounds upon which the Commission should intervene in the Decision?

(c) If there are grounds to intervene, what is the appropriate remedy?

III. SUBMISSIONS OF THE PARTIES

A. IIROC Staff

[23] IIROC Staff requests that we overturn the Decision with respect to TDSI's supervision practices for two principal reasons:

(a) IIROC Staff submits that the IIROC Hearing Panel overlooked material evidence relating to TDSI's supervisory failures. IIROC Staff contends that the evidence clearly demonstrated that TDSI was either doing a very poor job of supervising the bidding activity of the TDSI Traders or, worse, condoned the manipulative bidding activity; and

(b) IIROC Staff submits that the Decision is premised on an error of law or incorrect principle, which caused the IIROC Hearing Panel to attribute "... to TDSI an understanding or interpretation of UMIR that has no factual underpinning" (Factum of IIROC Staff at para. 66) and then to use this as a basis to excuse TDSI's supervisory failures.

[24] In summary, IIROC Staff submits that the IIROC Hearing Panel's fundamental and overarching error is its finding that TDSI held a "mistaken belief" that bids within the context of the market were not potentially manipulative and that this mistaken belief excused TDSI's failure to detect the manipulative bidding by the TDSI Traders. IIROC Staff's position is that TDSI was "doing the wrong job" of supervising the bidding activity of the TDSI Traders because its starting position was that bids within the context of the market were not manipulative.

[25] IIROC Staff argues that there was nothing untoward or unusual about TDSI's supervisory or compliance system structurally, but takes issue with TDSI's execution of its system. Firstly, IIROC Staff submits that TDSI's system was inadequate because it excluded a whole group of trades and orders, those within the context of the market, from consideration as potentially manipulative. Secondly, IIROC Staff submits that even if TDSI said it was looking at trades and orders in the context of the market, but in fact largely overlooked them, TDSI's execution of its system would have been inadequate.

[26] IIROC's more detailed submissions are as follows:

(a) Overlooked or misapprehended evidence that TDSI was not reviewing for artificial closing bids

[27] IIROC Staff submits that the IIROC Hearing Panel ignored evidence of what Dingwall and Tucker said they were doing and were capable of doing with respect to reviewing closing bids when they concluded that TDSI adequately supervised, despite the fact that TDSI did not detect any of the extensive closing bid activity at issue during the relevant period.

[28] IIROC Staff disputes the IIROC Hearing Panel's finding that Tucker and Dingwall faced a "monitoring difficulty", and submits that neither Tucker nor Dingwall made such a claim during the hearing. IIROC Staff contends that the IIROC Hearing Panel failed to address the evidence of how the "random review" approach used by TDSI failed in the circumstances.

[29] Further, IIROC Staff submits that the IIROC Hearing Panel's conclusion that the reason for TDSI not monitoring TIC trades was "understandable" and that it would not have been possible to perform a systematic review of Nemy's late bids overlooks and misconstrues evidence. IIROC Staff submits that the issue does not turn on the capacity for "systemic review" but whether the evidence demonstrates that Dingwall was either not conducting a review of closing bids or was doing so inadequately. Similarly, IIROC Staff also submits that if Tucker or Dingwall had acted on any of the indicia of manipulation that they purported to be monitoring, the issues would have been detected. Therefore, IIROC Staff submits that the evidence indicates that TDSI's trade desk supervisors were either conducting the review of unfilled orders inadequately or not at all; or that they condoned the entry of late closing bids.

(b) Overlooked evidence that TDSI condoned or encouraged the entry of artificial closing bids

[30] IIROC Staff submits that the IIROC Hearing Panel failed to address significant evidence of an instant message exchange between Dingwall and Nemy on August 31, 2005 (the "**August 31 IM**") that makes it plain that Nemy intended to create an artificial closing bid. IIROC Staff submits that despite finding this exchange "extremely significant" with respect to the findings against Nemy, nowhere in the Decision does the IIROC Hearing Panel refer to the August 31 IM in relation to the allegations of lack of supervision. By this time, it should have been clear to Dingwall that at least one of the traders under his supervision was willing to, and did, manipulatively affect the bid price in an attempt to establish the closing bid price by his order activity.

[31] IIROC Staff further submits that the finding in the Decision that the "context of the market" approach to bidding explained why Dingwall and Tucker would not have been concerned when a late bid triggered their Stock Watch List ("**Watch List**")[1] is inconsistent with the finding in the Decision that it would have been impossible to do a systematic review of Nemy's bids and that the reason for not monitoring TIC was understandable. Further, IIROC Staff submits that TDSI admitted it had the technology and procedures to detect, and did detect, in the case of Nott and Sadeghi, manipulative activity.

[32] IIROC Staff notes that the IIROC Hearing Panel accepted Nott's testimony that "bidding within the context of the market for the purpose of maintaining the price of the stock was accepted practice and not regarded as high closing" and found that this was consistent with other evidence. IIROC Staff submits that the IIROC Hearing Panel's acceptance of this evidence when considering the allegations against the TDSI Traders is inconsistent with the conclusion that the lack of monitoring of bidding in TIC was understandable when considering the allegations regarding supervision.

(c) Misapprehended evidence of TDSI representatives about what they considered manipulative activity and the indicia of manipulative activity

[33] IIROC Staff submits that the finding in the Decision that TDSI had an "honest but erroneous interpretation" of UMIR is based on a misapprehension of the evidence about the prevailing understanding at TDSI at the time concerning artificial closing bids. IIROC Staff argues that the "context of the market" premise is nowhere delineated, averted to or described in the TDSI report to IIROC in November 2005 (the "**Gatekeeper Report**")[2] in evidence at the hearing. IIROC Staff submits that, in their testimony at the IIROC hearing, Tucker and Dingwall confirmed that it is the bona fides of the bid, not whether it is within the context of the market, which is key to a determination of artificiality.

[34] IIROC Staff notes that the "context of the market" principle was a defence advanced on behalf of TDSI, Nemy, Kaplan and Poulstrup at the IIROC hearing. IIROC Staff submits that this "context of the market" argument was rejected by the IIROC Hearing Panel in the Decision as it relates to the manipulative bidding activity of the TDSI Traders, but nevertheless became the cornerstone of the IIROC Hearing Panel's reasons for excusing TDSI's supervisory failures. With reference to Nott's testimony,

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1 A Watch List is described in the Decision at para. 427 as:

> … [a] list of stock symbols on a screen that identifies the bid price, the quantity bid, the offer price, the quantity for sale on the offering, the last sale and volume for each of the stock symbols. A stock would remain on the Watch List unless it was deleted. Whenever anything happened in the stock the whole line of that stock would light up (flash) for a second or two and then disappear. … In short, this was a signal that something has happened in the stock.

2 According to paragraph 45 of the Decision, the Gatekeeper Report addresses a report made by Nott to Dingwall in October 2005 of an accidental purchase of 154,000 shares in CDF.A. As a result of this accidental acquisition, Dingwall and Tucker conducted monitoring and investigation procedures that led to the suspension and ultimate dismissal of Nott and Sadeghi on November 30, 2005.

which the IIROC Hearing Panel accepted as credible, IIROC Staff submits that the IIROC Hearing Panel concluded that the accepted practice of bidding in the context of the market was not just something that the TDSI Traders engaged in, but was a practice of which TDSI supervisors were cognizant and accepting.

[35] IIROC Staff further notes that TDSI took the position at the IIROC hearing that none of Nemy, Poulstrup and Kaplan, who were represented by the same counsel as TDSI, entered any artificial bids for the reason that their bids were within the context of the market.

(d) Erred in law or principle in reaching the conclusion that an "honest but erroneous interpretation" or mistaken understanding of UMIR 2.2 excuses a failure to comply with trading supervision obligations

[36] IIROC Staff submits that the IIROC Hearing Panel, having overlooked or misapprehended evidence, then excused TDSI's supervisory failures on the basis of TDSI's erroneous understanding of the requirements of UMIR Rule 2.2.

[37] IIROC Staff submits that given the IIROC Hearing Panel's findings of numerous artificial bids by the TDSI Traders and rejection of the notion that bids in the context of the market cannot be considered artificial under UMIR, it cannot follow that "an honest but erroneous interpretation" of UMIR 2.2 absolves TDSI of liability for a failure to supervise its traders.

[38] With reference to previous Commission decisions, IIROC Staff submits that an erroneous interpretation or mistaken understanding of regulatory requirements is no defence on the part of a registered market participant to an allegation of a failure to supervise (*Re Gordon Capital Corp.* (1990), 13 O.S.C.B. 2035 at 2, aff'd *Gordon Capital Corp. v. Ontario (Securities Commission)*, [1991] O.J. No. 934 (Div. Ct.) and *Re Sabourin* (2009), 32 O.S.C.B. 2707 at paras. 64-68). IIROC Staff notes that TDSI did not raise the notion of a "mistaken interpretation" of UMIR as a defense to the allegations, rather "TDSI took the position that it detected the artificial bidding by Nott and Sadeghi and that other than one artificial bid by Kaplan no other artificial bidding ... had occurred" (Factum of IIROC Staff at para. 117).

B. TDSI

[39] TDSI submits that IIROC Staff mischaracterizes the reasoning of the IIROC Hearing Panel in its submissions. TDSI notes that the allegations against TDSI are dismissed in the Decision before any mention of an "honest but erroneous interpretation of UMIR Policy". TDSI submits that the comments by the IIROC Hearing Panel in the Decision regarding an "honest but erroneous interpretation" are from a separate part of the Decision, the section entitled "Discussion of the October 2005 Analysis", and that the IIROC Hearing Panel's comments are clearly directed at what "alerts" or "flags" TDSI had to assist it in monitoring trades or orders. TDSI argues that the IIROC Hearing Panel did not state, as IIROC Staff submits, that it was excusing a failure of supervision by TDSI on the basis of a mistaken understanding of UMIR Rule 2.2.

[40] TDSI submits that the IIROC Hearing Panel considered and rejected IIROC Staff's allegations against TDSI and provided detailed reasons, which were supported by references to the extensive record developed over a 24-day hearing. TDSI's more detailed submissions are as follows.

(a) The IIROC Hearing Panel did not misapprehend or overlook any material evidence

[41] TDSI urges the Commission to be cautious about claims that evidence was overlooked or misapprehended, and notes that the Commission has repeatedly emphasized in previous decisions that it affords deference to the factual determinations of a hearing panel of a self-regulatory organization ("**SRO**"), especially those determinations central to the SRO's specialized competence. TDSI submits that the case law notes that an allegation that material evidence was overlooked must be demonstrated clearly and that the Commission will not intervene where it appears that the SRO considered the entire record before it and reached a reasonable decision (*Re Shambleau* (2002), 25 O.S.C.B. 1850 at 1852, aff'd *Shambleau v. Ontario (Securities Commission)* (2003), 26 O.S.C.B. 1629 (Div. Ct.) ("***Shambleau***"), *Investment Dealers Assn. of Canada v. Boulieris*, [2005] O.J. No. 1984 (Div. Ct.) at paras. 27, 33 and *Re Vitug* (2010), 33 O.S.C.B. 3965 at paras. 102-106, aff'd 2010 ONSC 4464 (Div. Ct.) ("***Vitug***")).

[42] TDSI submits that the IIROC Hearing Panel did not misapprehend the evidence of the TDSI supervisors, Dingwall and Tucker, as to the review of orders and that the IIROC Hearing Panel understood that the trading supervisors could only conduct a random review because of the enormity of the order volume TDSI generated each day and the limitations of existing technology. TDSI notes that the IIROC Hearing Panel concluded that the TDSI supervisory system described by the trading supervisors met industry standards. TDSI argues that the IIROC Hearing Panel found that the TDSI "trade supervision system" was adequate, even though it did not always succeed in identifying artificial orders.

[43] With respect to the August 31 IM between Nemy and Dingwall that IIROC Staff contends was overlooked, TDSI submits that the IIROC Hearing Panel clearly directed itself to the August 31 IM, and reproduced it in the Decision. TDSI submits that it was open to the IIROC Hearing Panel to assess the August 31 IM in the context of all the evidence and to treat it as less

probative than IIROC Staff submitted it was. TDSI further notes that Dingwall testified that if he had been aware of late bids, he would have pursued them, and submits that the IIROC Hearing Panel accepted the veracity of Dingwall's evidence.

[44] Similarly, TDSI submits that the IIROC Hearing Panel did not overlook evidence with respect to CDF.A. TDSI contends that the IIROC Hearing Panel properly understood that the detection of manipulation in CDF.A resulted from factors that went beyond the detection of artificial orders, including "Nott's insubordination, wash trading and a loss of trust in the honesty of the traders who had a motivation to collude in the month leading up to a payout calculation" (Memorandum of Fact and Law of TDSI at para. 96(b)).

[45] TDSI submits that the IIROC Hearing Panel did not overlook evidence that would support a finding that TDSI condoned Nemy's statement that he might mark down the price of TIC. TDSI further submits that IIROC Staff's assertion that Dingwall did not question Nemy's proposal to mark down the price of TIC is contradicted by Dingwall's objections in the instant message exchange. TDSI argues that the IIROC Hearing Panel made adverse credibility findings against Nemy concerning the meaning of his statements to Dingwall and did not accept that the August 31 IM showed any tolerance by Dingwall for artificial bids.

[46] TDSI also contests IIROC Staff's allegation that the IIROC Hearing Panel misapprehended or overlooked Nott's evidence. TDSI submits that its approach was never to condone manipulative trading and that there is nothing in the reasons to this effect. TDSI submits that Nott's evidence is consistent with TDSI's interpretation of UMIR Policy 2.2 as meaning that if prices of orders are consistent with preceding and succeeding bids, they are not likely to be artificial but rather are more likely to be legitimate because they are consistent with the prevailing market. TDSI submits that the statement in the Decision that "bidding within the context of the market was accepted practice and not regarded as high closing" cannot be read to mean that bidding in the context of the market always evidences an intention to place an artificial bid to maintain prices, but means only that bids placed in the context of the market bear further scrutiny because they could, given Nott's evidence, include artificial bids that were never intended to be filled.

[47] TDSI argues that the IIROC Hearing Panel certainly did not say that either Cooper or Dingwall tolerated or permitted traders to enter bids with no intention the bids would ever be filled. TDSI submits that IIROC Staff incorrectly equates Cooper and Dingwall's failure to identify bids made in the context of the market as potentially artificial with active acceptance of traders entering bids with a "bad intention". TDSI submits that Cooper and Dingwall's evidence was clearly that if they had actually become aware of any facts suggesting that the traders did not intend to buy, they would have followed up immediately.

[48] Finally, TDSI submits that the IIROC Hearing Panel did not misapprehend TDSI's view of what constituted manipulative activity.

(b) The IIROC Hearing Panel did not err in law or principle

[49] TDSI submits that the IIROC Hearing Panel's interpretation of UMIR Rule 7.1 and Policy 7.1 should be entitled to significant deference, given that UMIR Rule 7.1 and Policy 7.1 are rules that call for determinations based on knowledge of industry practices. TDSI submits that the composition of the IIROC Hearing Panel in this matter is significant, noting that it was comprised of an experienced trial judge and two members from the industry with considerable knowledge of trading, supervision of trading and industry practice.

[50] TDSI disagrees with IIROC Staff's submission that the IIROC Hearing Panel condoned an honest yet erroneous interpretation of UMIR 2.2. TDSI submits that the IIROC Hearing Panel determined that TDSI met industry standards and had adequate supervision by conducting the random review it did. In any event, TDSI submits that the statement in the Decision about TDSI's alert system being based on an "honest yet erroneous interpretation of UMIR Policy" clearly did not drive the conclusion that the supervision was adequate.

[51] TDSI submits that before the Decision, it was not clear how UMIR Policy 2.2 treated bidding activity that fits the context of the market. The Decision concludes that a pattern of small orders, in an illiquid stock, placed very late in the day but priced in the context of the market can still violate UMIR Rule 2.2 and Policy 2.2 whether or not anyone in the market observes or responds to such a pattern. TDSI submits that the adequacy of its supervision had to be measured against a policy that, for better or worse, did not provide a clear rule which, once crossed, conclusively established artificiality. TDSI disagrees with IIROC Staff's assertion that the Decision was not novel in its consideration of artificial bids, and distinguishes the cases cited by IIROC Staff from the Decision.

[52] In response to IIROC Staff's allegation that the IIROC Hearing Panel erred in allowing a "defence of ignorance or misunderstanding of the law", TDSI submits that the IIROC Hearing Panel did not rely on any "due diligence" defence in dismissing the allegations against TDSI. TDSI submits that the due diligence cases cited by IIROC Staff are inapplicable because the IIROC Hearing Panel did not consider or apply such a defence.

[53] TDSI submits that IIROC Staff is attempting to re-argue issues that were fully considered and is trying to disguise this fact by alleging that the IIROC Hearing Panel overlooked or misapprehended evidence, when it did no such thing.

C. OSC Staff

[54] OSC Staff made submissions regarding the regulatory framework for reviews of IIROC decisions and the appropriate scope of review of a decision of an IIROC hearing panel. OSC Staff submits that an applicant must meet a high threshold to demonstrate that a decision of a hearing panel of IIROC should be overturned (*Vitug*, *supra* at para. 44, *Shambleau*, *supra* at 1852 and *Re HudBay Minerals Inc.* (2009), 32 O.S.C.B. 3733 at paras. 103 and 104 ("*HudBay*")).

[55] OSC Staff further submits that the Commission will employ a restrained approach and will not generally substitute its own view of the evidence for that taken by an IIROC hearing panel on the basis that it might have come to a different conclusion (*Re Market Regulation Services Inc.* (2008), 31 O.S.C.B. 5441 at para. 62, Vitug, *supra* at para. 46 and 47 and *HudBay*, *supra* at para. 103).

[56] OSC Staff takes no position on the facts of the case or the order requested by IIROC Staff.

IV. RELEVANT UMIR SECTIONS

[57] The IIROC Hearing Panel considered the application of UMIR Rule 2.2 and Policy 2.2 to the actions of the TDSI Traders and also considered TDSI's supervisory obligations under UMIR Rule 7.1 and Policy 7.1.

[58] UMIR Rule 2.2 – Manipulative and Deceptive Activities states:

> (1) A Participant or Access Person shall not, directly or indirectly, engage in or participate in the use of any manipulative or deceptive method, act or practice in connection with any order or trade on a marketplace if the Participant or Access Person knows or ought reasonably to know the nature of the method, act or practice.
>
> (2) A Participant or Access Person shall not, directly or indirectly, enter an order or execute a trade on a marketplace if the Participant or Access Person knows or ought reasonably to know that the entry of the order or the execution of the trade will create or could reasonably be expected to create:
>
> (a) a false or misleading appearance of trading activity in or interest in the purchase or sale of the security; or
>
> (b) an artificial ask price, bid price or sale price for the security or a related security.
>
> (3) For greater certainty, the entry of an order or the execution of a trade on a marketplace by a person in accordance with the Market Maker Obligations shall not be considered a violation of subsection (1) or (2) provided such order or trade complies with applicable Marketplace Rules and the order or trade was required to fulfill applicable Market Maker Obligations.

[59] UMIR Policy 2.2, Part 2 – Manipulative and Deceptive Activities states, in part:

> For the purposes of subsection (2) of Rule 2.2 and without limiting the generality of that subsection, if any of the following activities are undertaken on a marketplace and create or could reasonably be expected to create a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection (2) of Rule 2.2:
>
> …
>
> (e) entering an order or orders for the purchase or sale of a security to:
>
> (i) establish a predetermined sale price, ask price or bid price,
>
> (ii) effect a high or low closing sale price, ask price or bid price, or
>
> (iii) maintain the sale price, ask price or bid price within a predetermined range; …

[60] UMIR Rule 7.1 – Trading Supervision Obligations states:

> (1) Each Participant shall adopt written policies and procedures to be followed by directors, officers, partners and employees of the Participant that are adequate, taking into account the business and affairs of the Participant, to ensure compliance with UMIR and each Policy.

(2) Prior to the entry of an order on a marketplace by a Participant, the Participant shall comply with:

(a) applicable regulatory standards with respect to the review, acceptance and approval of orders;

(b) the policies and procedures adopted in accordance with subsection (1); and

(c) all requirements of UMIR and each Policy.

(3) Each Participant shall appoint a head of trading who shall be responsible to supervise the trading activities of the Participant in a marketplace.

(4) The head of trading together with each person who has authority or supervision over or responsibility to the Participant for an employee of the Participant shall fully and properly supervise such employee as necessary to ensure the compliance of the employee with UMIR and each Policy.

V. THE COMMISSION'S JURISDICTION TO INTERVENE

[61] Under section 21.7 of the Act, the Commission has authority to hold a hearing and review of a decision of a recognized SRO, such as IIROC. Section 21.7 of the Act states:

> 21.7 (1) Review of Decisions – The Executive Director or a person or company directly affected by, or by the administration of, a direction, decision, order or ruling made under a by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized exchange, recognized self-regulatory organization, recognized quotation and trade reporting system, recognized clearing agency or designated trade repository may apply to the Commission for a hearing and review of the direction, decision, order or ruling.
>
> (2) Procedure – Section 8 applies to the hearing and review of the direction, decision, order or ruling in the same manner as it applies to a hearing and review of a decision of the Director.

[62] Section 8(3) of the Act sets out the Commission's powers upon a hearing and review:

> 8. (3) Power on Review – Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

[63] In a hearing and review, the Commission exercises a jurisdiction akin to a hearing *de novo*. The Commission has stated that "a hearing and review may be considered broader in scope than an appeal, which is usually limited to determining whether there has been an error in law or a rule of natural justice has been contravened" (*Investment Dealers Assn. of Canada v. Boulieris* (2004), 27 O.S.C.B. 1597 at paras. 29-30, aff'd [2005] O.J. No. 1984 (Div. Ct.)).

[64] The grounds upon which the Commission may intervene in a decision of a SRO are set out in *Re Canada Malting Co.* (1986), 9 O.S.C.B. 3587 ("***Canada Malting***"), and have continued to be applied in subsequent Commission decisions. The Commission may intervene in the Decision pursuant to section 21.7 of the Act if:

(a) the IIROC Hearing Panel proceeded on an incorrect principle;

(b) the IIROC Hearing Panel erred in law;

(c) the IIROC Hearing Panel overlooked material evidence;

(d) new and compelling evidence is presented to the Commission which was not presented to the IIROC Hearing Panel; or

(e) the IIROC Hearing Panel's perception of the public interest conflicts with that of the Commission.

(*Canada Malting*, *supra* at 3587)

[65] In this case, IIROC Staff alleges that the IIROC Hearing Panel erred in law or proceeded on an incorrect principle and/or overlooked material evidence. No new evidence was presented to the Commission in this case. Our decision is based on the record before the IIROC Hearing Panel and its Decision.

[66] An applicant must meet the heavy burden of establishing that its case fits within one of these five grounds before the Commission will intervene (*Canada Malting*, *supra* at 3589). The Commission will not intervene simply because it may have come to a different conclusion in the circumstances, as stated by the Commission in a review of a TSX decision in *HudBay*, *supra* at para. 103:

> The Commission generally shows deference to the decisions of the TSX, particularly in the areas of the TSX's expertise. We recognize the important role that the TSX plays within our regulatory framework. The Commission's authority under section 21.7 of the Act should not be used as a means to second-guess reasonable decisions made by the TSX. The Commission will not substitute its own view for that of the TSX simply because the Commission might have reached a different conclusion in the circumstances.

[67] As noted in previous cases, there is a high threshold to meet in order to demonstrate that a Decision of a SRO should be overturned (*Vitug*, *supra* at para. 44 and Shambleau, *supra* at 1852). In the recent decision of *Re Magna Partners Ltd.* (2011), 34 O.S.C.B. 8697, the Commission stated, with respect to a review of a decision of an IIROC panel;

> The Commission will generally defer to determinations central to IIROC's specialized expertise, such as interpreting and applying its own by-laws or making factual determinations central to its expertise.
>
> (*Re Magna Partners Ltd.*, *supra* at para. 43)

VI. ANALYSIS

A. Did the IIROC Hearing Panel overlook or misapprehend material evidence?

1. Did the IIROC Hearing Panel overlook evidence that TDSI was not adequately reviewing for artificial closing bids?

[68] IIROC Staff alleges that the IIROC Hearing Panel overlooked or misapprehended material evidence in three respects. The first issue addressed by IIROC Staff is that the IIROC Hearing Panel overlooked or misapprehended evidence that demonstrates that TDSI was not adequately reviewing for artificial closing bids.

[69] The crux of this allegation is that the IIROC Hearing Panel overlooked evidence that Dingwall and Tucker did an inadequate job in their supervisory capacity. Had the IIROC Hearing Panel properly considered this evidence, they could not have found that TDSI met its supervisory obligations under UMIR.

[70] In order for us to address this issue it is necessary to review (i) the evidence that was marshalled by the IIROC Hearing Panel and other evidence before it about what Dingwall and Tucker were doing as supervisors, and (ii) what the Decision ultimately concludes about the extent to which Dingwall and Tucker supervised the TDSI Traders in making closing bids.

(a) Evidence Marshalled by the IIROC Hearing Panel and Other Evidence Consistent with its Findings

[71] The IIROC Hearing Panel accepted evidence about a variety of monitoring activities in which Dingwall and Tucker were engaged, including monitoring the Watch List and the criteria used by Dingwall to supervise trading activity. The following evidence is noted in the Decision:

- Dingwall said illiquid stocks have a higher potential for manipulation because there are generally fewer bids and offers in the book (Decision, *supra* at para. 367).
- Dingwall reviewed the inventory report for each trader every morning to determine individual trader exposure and TEG overall sector exposure. Based on this daily review, positions inconsistent with usual trading patterns could be detected (Decision, *supra* at para. 425).
- Dingwall said when he saw a stock on his Watch List flash he would generally pull up a Market by order to see whether the change was as a result of a TDSI trader. If it was, he would investigate further to see what happened (Decision, *supra* at para. 430).
- Because of the heavy TDSI inventory position in TIC, TIC was on the Watch List for the entire relevant period. After a "fat finger" purchase by Nott on October 4, 2005, CDF.A was also on the Watch List (Decision, *supra* at paras. 448-449).

[72] We further note that the IIROC hearing record contains additional evidence of Dingwall and Tucker's supervision activities that is consistent with the IIROC Hearing Panel's conclusions in its Decision, including the following:

- During the IIROC hearing, Dingwall testified that one of his criteria in supervision would be to focus on more illiquid stocks, and that TIC would have been a liquid stock during the relevant time period (IIROC Hearing Transcript, January 28, 2010 at page 2329).

- Dingwall testified during the IIROC hearing that TDSI reviewed orders on a daily basis, even if trades had not occurred. Dingwall further testified that he would review orders on a random basis even if there were not trades and he personally reviewed high closing bids (IIROC Hearing Transcript, January 28, 2010 at pages 2279 to 2282).

- TIC was on Dingwall's Watch List, so that he would be notified when there was activity in TIC, and he also had a real-time tool that could show the position of TIC at any time (IIROC Hearing Transcript, January 28, 2010 at page 2361).

- Dingwall described his Watch List surveillance at the end of the month as being different from his daily surveillance as follows: "It's just a lot more focus on taking a look and seeing who's on the bid at the end of the day, quantities and taking a look in the context of where the stock is trading" (IIROC Hearing Transcript, January 28, 2010 at pages 2424 to 2425).

- Tucker also testified that he used Watch Lists as a supervision tool, stating "If it was on my watch list, I would go through a number of times a day and take a look at the stock just to make sure I was comfortable" (IIROC Hearing Transcript, January 29, 2010 at pages 2609 to 2610).

- As TDSI noted, Dingwall's testimony was not that he would ignore bids in the context of the market, but rather that "… if it had been trading at 2.75, 2.76, and I see it at – when I pull it up after the close that it's showing 2.71, I might not think too much of it. But if it – if the highlight popped up exactly one second and there's nothing going on in the stock, then I would definitely have asked for an explanation" (IIROC Hearing Transcript, January 28, 2010 at page 2401).

- In response to questions regarding late bids entered by Nemy, Dingwall testified as follows at the IIROC hearing:

> THE WITNESS: I would think too in terms of, like, the motive, in terms of – you know he's quite comfortable in terms of the amount of P&L. You know, up a hundred, down two hundred. That – I don't understand why. He was a successful trader. You know, he made real money trading, P&L realized profits, not unrealized losses. So that's why I question that he would be doing it just to be marking his inventory. That's you know –
>
> MR. LAWSON: But is that a question in terms of price discovery?
>
> THE WITNESS: I would – if I saw him doing it, I would definitely be wanting to question – to ask that question of him, yes.
>
> (IIROC Hearing Transcript, January 28, 2010 at pages 2495 to 2496)

(b) The IIROC Hearing Panel's Conclusions with respect to Supervision at TDSI

[73] Having considered the evidence of how supervision was conducted at TDSI, the IIROC Hearing Panel found that TDSI's practices met the requirements of UMIR Rule 7.1 and Policy 7.1.

[74] However, IIROC Staff alleges that the evidence noted above is evidence of what Dingwall and Tucker said they were doing, not of what Dingwall and Tucker actually did.

[75] IIROC Staff submits that the Decision does not address evidence of how the "random review" approach used by TDSI, and in particular Dingwall, failed in the circumstances. IIROC Staff alleges that if Tucker or Dingwall had acted on any of the indicia of manipulation that TDSI said they looked for when supervising – large illiquid positions or overlapping inventory positions – issues could have been detected, investigated or escalated, for instance to TDSI Compliance which was well-equipped to do post-trade reviews. On this point, IIROC Staff makes specific reference to TDSI's monitoring of TIC and CDF.A and submits that the fact that there was an abundance of closing bid activity by Nemy and Poulstrup in TIC and by Nott in CDF.A, without further investigation by Dingwall or Tucker, is evidence that there was a failure in supervision. IIROC Staff also submits that, as noted by Cooper in his evidence, bidding in TIC had all the indicia of manipulation and was on Dingwall's Watch List, yet Dingwall never questioned the activity in TIC.

[76] IIROC Staff further alleges that in making the finding that TDSI had a "monitoring difficulty", the IIROC Hearing Panel overlooked evidence that neither Dingwall nor Tucker made any such claim. The Decision states:

> A flash on the screen is not a signal or flag alerting a late bid. The flash could be the result of *any* transaction in the stock by *any* trader. This was the monitoring difficulty facing Dingwall and Tucker. The flash on the Watch List screen imparted the information that some kind of activity had occurred with the stock. But in order to determine relevant reason for the flash (whether it was a bid, the time of the bid, who entered the bid) it was necessary to take the time required to use one of the monitoring tools. The overwhelming frequency of flashes near the end of the day made this impossible.
>
> (Decision at para. 438)

[77] Finally, IIROC Staff alleges that evidence from Dingwall's admissions and in the form of instant messages between Dingwall and Nemy demonstrates that Dingwall was either not conducting a review of closing bids or was doing so inadequately. Dingwall's comments to Nemy in the August 31 IM are addressed below in our analysis of whether the IIROC Hearing Panel overlooked evidence that TDSI condoned or encouraged the entry of artificial closing bids.

[78] The IIROC Hearing Panel made a number of findings with respect to Dingwall's supervision activities. First, the IIROC Hearing Panel noted that Dingwall did not find fault with Nemy's bidding in TIC:

> Nemy repeatedly said his bids were made within the context of the market. Cooper, the Chief Compliance Officer for TDSI, conducted a meticulous retroactive review of Nemy's trading in TIC and was satisfied there was nothing wrong with Nemy's bidding. Boddie examined every TIC bid by Nemy and Poulstrup. He testified that each and every Closing Bid was consistent with the market price at the time of the bid and therefore not an Artificial Closing Bid. Dingwall did not find fault with Nemy's bidding in TIC.
>
> (Decision at para. 334)

[79] We read this excerpt from the Decision as suggesting that the IIROC Hearing Panel considered Dingwall's supervision of Nemy and found it adequate, despite the fact that it did not identify the artificial closing bids that were eventually identified by the IIROC Hearing Panel.

[80] The IIROC Hearing Panel makes clear that the motivation, intention, or state of mind of a trader is a factor in determining whether a closing bid is artificial. As noted above in paragraph [72], the IIROC Hearing Panel considered Dingwall's testimony regarding Nemy's possible motivation to manipulate prices. This testimony was that Nemy made real money trading and that Dingwall questioned whether Nemy would be placing orders just to mark his inventory (Decision at para. 452 and IIROC Hearing Transcript, January 28, 2010 at pages 2495 to 2496). We conclude from this that the IIROC Hearing Panel considered Dingwall's testimony concerning his judgment about Nemy's lack of motivation to engage in artificial bidding to be sufficient explanation for the failure to identify the artificial closing bids in this instance.

[81] Second, the Decision notes that Dingwall did take action with respect to some of Nott's activities, including giving Nott a verbal warning in connection with his trading in CDFA.

[82] We do not find a basis here for the Commission to second-guess the IIROC Hearing Panel's view that Dingwall's supervisory actions with respect to Nemy and Nott were adequate in the circumstances. As discussed further below at paragraphs [114] to [125], the IIROC Hearing Panel accepted that an adequate supervisory system included elements of judgment. The IIROC Hearing Panel had evidence before it of the criteria used to exercise that judgment. In our view it was open to the IIROC Hearing Panel to accept that evidence as indicating that Dingwall was doing an adequate job of supervision.

[83] Third, the IIROC Hearing Panel found that in the circumstances, it was understandable that Dingwall would not have been able to identify artificial closing bids in the manner suggested by IIROC Staff, based on his reviews. The IIROC Hearing Panel noted:

> It must be realized that the time of the bid information obtained from a random review was limited to one particular day. It is apparent from the reasons of the Panel that demonstrating a *pattern* of late bids by a trader is one of the factors relied on by the Panel in drawing an inference of Artificial Closing Bids. The time required to do this would have been completely beyond the capacity of Dingwall and Tucker because they would have to take the time to print out the end of the day trading of a stock from the Firm Book every day for enough days to reveal a pattern of late bids. [emphasis in original]
>
> (Decision at paras. 437 and 439)

The IIROC Hearing Panel further noted that:

> Dingwall said the Watch List screen is updating all day. He said it would be physically impossible to investigate every signal. He said that if he tried to do this he would be sitting there just looking at TIC from 9.30 to 4.00 every single day because "as you can imagine from looking at the TOQs, each stock generates hundreds of pages of updates, every day, even on these illiquid stocks…"
>
> Dingwall recognized that manipulative activity is more likely to occur on or about the opening and at or near the close: "At 3.59 probably the entire screen would be going inverse because of the activity at that time of the day."
>
> (Decision at paras. 431 to 432)

[84] The IIROC Hearing Panel accepted that Dingwall was exercising adequate judgment about who and what to monitor and concluded that "[t]he reason for not monitoring TIC is understandable" (Decision at para. 454). We read these comments about the difficulty associated with the monitoring task as demonstrating that the IIROC Hearing Panel was cognizant of the challenges associated with real time supervision and the impossibility of examining all orders for evidence of artificiality. The IIROC Hearing Panel was prepared to accept the fact that artificial bids might go undetected by a nevertheless adequate supervisory system. Although the IIROC Hearing Panel found that the TDSI Traders entered artificial closing bids in many instances, we note that it did not find that every closing bid entered by the TDSI Traders referenced in the original allegations was artificial. The IIROC Hearing Panel took the view that supervision for artificial bids requires the exercise of judgment, and, considering all the circumstances, the Panel concluded that the TDSI system of supervision was adequate, despite the fact that it did not pick up on a pattern of artificial closing bids by the TDSI Traders.

[85] We reject the allegation that the IIROC Hearing Panel did not address the evidence of how TDSI's "random review approach" failed in the circumstances. On the contrary, we find that the IIROC Hearing Panel included an analysis of the entire supervisory structure in its Decision and addressed how the artificial bidding behaviour could have passed undetected. We find that it was reasonable for the IIROC Hearing Panel to conclude, based on the evidence before it, that TDSI met its responsibilities with respect to supervision.

2. Did the IIROC Hearing Panel overlook evidence that TDSI condoned or encouraged the entry of artificial closing bids?

[86] IIROC Staff alleges that the IIROC Hearing Panel overlooked evidence from the August 31 IM that Dingwall should have been aware that Nemy intended to create an artificial closing bid for TIC. The excerpt from the August 31 IM that IIROC Staff submits is evidence that TDSI condoned or encouraged the entry of artificial closing bids is reproduced in the Decision:

> 3:13:48 – *Nemy to Dingwall: approx what is top # this month*
>
> 3:15:54 – **Dingwall to Nemy: you got it by a good margin**
>
> 3:16:23 – *Nemy to Dingwall: might sell some TIC so we get a good start to next month*
>
> 3:17:57 – *Nemy to Dingwall: mark down … not up*
>
> 3:20:01 – **Dingwall to Nemy: I understand, but doesn't really help in long run does it. I wouldn't bother**
>
> 3:20:37 – *Nemy to Dingwall: its easier to trade with a lead*
>
> 3:20:53 – *Nemy to Dingwall: psychologically*
>
> 3:22:34 – **Dingwall to Nemy: Yeah but doesn't do any favours to the stock to knock it down. Rather you keep someone from running it up, maybe move it down small with some time to go than move it too much down close to close**
>
> 3:23:24 – *Nemy to Dingwall: have faith*
>
> 3:24:03 – *Nemy to Dingwall: its going north way too fast*
>
> 3:24:11 – **Dingwall to Nemy: y**
>
> 4:02:41 – *Nemy to Dingwall: damn … someone marked it up*

4:03:14 – **Dingwall to Nemy: you can still close it 2.20 offer**

4:03:51 – *Nemy to Dingwall: how*

4:03:51 – *Nemy to Dingwall: its CDX*

4:03:56 – **Dingwall to Nemy: dohhhh**

4:04:03 – *Nemy to Dingwall: dohhhhhhhhhhhhhhhhhhhhhhhhhhhh*

[emphasis in Decision]

(Decision at para. 193)

[87] We find the August 31 IM troubling. Dingwall's statements to Nemy that he "wouldn't bother" marking down TIC and that "you can still close it 2.20 offer" are concerning to us. We would have expected a supervisor to take specific action to prohibit the conduct Nemy appeared to be proposing. Dingwall's statement to Nemy that "I wouldn't bother" is not a sufficient response to this situation. Moreover, this exchange could be read as indicating that Dingwall was providing instruction to Nemy regarding a closing bid which may have been artificial.

[88] However, on balance we are not satisfied that the IIROC Hearing Panel overlooked this evidence. On the contrary, the IIROC Hearing Panel specifically references this excerpt in an earlier section of the Decision and identifies it as being "extremely significant" (Decision, *supra* at para. 154). The IIROC Hearing Panel clearly understood the August 31 IM and considered it when assessing the allegations against Nemy. Although the August 31 IM causes concern with respect to Dingwall's approach to supervision, it does not definitively deal with the broader question of whether TDSI met its obligations under UMIR Rule 7.1 and Policy 7.1 and must be considered in the context of all the evidence the IIROC Hearing Panel had before it.

[89] We find that, with respect to the allegations against TDSI, the IIROC Hearing Panel had the August 31 IM evidence and reviewed it in the context provided by the entire hearing record, including Dingwall's testimony for two days. From our careful review of the Decision and the record, IIROC Staff has not persuaded us that the IIROC Hearing Panel overlooked this evidence when it failed to make the inference advanced by IIROC Staff.

[90] We agree with TDSI's submission that it was open to the IIROC Hearing Panel to consider the August 31 IM evidence to be less probative with respect to TDSI's supervision than IIROC Staff submits it was. Although the instant message exchange is not specifically referenced in the parts of the Decision dealing with TDSI's supervision of the TDSI Traders, we find it unlikely that the IIROC Hearing Panel did not also consider it with respect to Dingwall's supervision. Paragraphs 452 and 453 of the Decision show that the IIROC Hearing Panel undertook an adequate review of the interactions between Dingwall and Nemy, including quoting from transcript evidence. The IIROC Hearing Panel noted that:

> Dingwall said he never had any trouble getting information from Nemy about his loss position ("He was very good"). Dingwall said when Nemy called in his position at the end of the day he never understated or misled Dingwall about how much he was losing in TIC ("He was very open and transparent").
>
> (Decision at para. 453)

[91] The IIROC Hearing Panel accepted Dingwall's testimony with respect to his relationship with Nemy and his assessment of Nemy's lack of motivation to make an artificial bid. The IIROC Hearing Panel makes no negative findings with respect to Dingwall's credibility in the Decision.

[92] Ultimately, we do not agree with IIROC Staff that the IIROC Hearing Panel overlooked evidence that Dingwall condoned Nemy's artificial bidding activity. We find that the IIROC Hearing Panel accorded the August 31 IM evidence the weight it thought appropriate when reaching its ultimate conclusion with respect to TDSI.

[93] IIROC Staff also submits that the IIROC Hearing Panel overlooked Nott's testimony on the issue of whether Dingwall condoned artificial closing bids. IIROC Staff points to Nott's testimony with respect to making bids with the intention of maintaining the price of a security:

> [Nott] testified and openly stated that the closing bids listed on the Tables to the Statement of Allegations were not motivated by an intention to establish a price justified by real demand or supply. He said his intention was to maintain the price of the security:
>
> > I think basically what this all – this whole argument comes down to – I think comes down to what's the definition of high trading. My management team, Rob Dingwall, Tucker, Rob Nemy, obviously

> had the same definition of high closing bid that I did, which meant not to go higher but you could maintain the bid. I mean, you know, this is – I'm just saying that this is proved by the actions with the – with the stock TIC …
>
> (Decision at para. 230)

[94] In the section of the Decision that considers the allegations against Poulstrup, the IIROC Hearing Panel notes that Nott's testimony clearly established the purpose of bidding by Poulstrup, quoting from Nott's testimony as follows:

> … So often, you know, Rob Dingwall or Mr. Tucker – when Rob Nemy was absent from the office they would always tell me, "Oh, make sure Jake [Poulstrup]'s taking care of the TIC," you know, and I was really busy, like I said. And I would be like, "Why don't you guys just call him," right? And then, you know, I would call him and say, "Jake," and he would say, "Yeah, yeah, yeah. Don't worry. You know, I'm watching it." He would put in the bid, maintain the bid like what was indicated and, you know, there was a lot of people in that office that were long with TIC, not just Rob Dingwall, not just Tucker. There was numerous people. They had an inventory there that was long a bunch. They all – everyone in the room watched that stock like a hawk.
>
> (Decision at para. 331)

[95] In the same section of the Decision, the IIROC Hearing Panel further finds that Nott's testimony was credible:

> Nott was not cross-examined by anyone. No evidence was called to contradict him. His testimony is not tainted by any self-serving purpose. The Panel accepts Nott's testimony as credible.
>
> Nott's assertion that bidding within the context of the market for the purpose of maintaining the price of the stock was accepted practice and not regarded as high closing is consistent with other evidence.
>
> (Decision at paras. 332-333)

[96] It is challenging to reconcile the apparent inconsistency between this testimony, accepted by the IIROC Hearing Panel in the context of other sections of its Decision, and our understanding of the key elements of the IIROC Hearing Panel's decision that TDSI had an adequate system of supervision with respect to artificial bids in the context of the market.

[97] Although it is true that the Decision notes that the IIROC Hearing Panel found Nott's testimony to be credible, it did so in the context of its analysis of allegations against Nott and Poulstrup. While the IIROC Hearing Panel does not refer to Nott's testimony in its analysis of the allegations against TDSI, we do not see a basis to infer that the IIROC Hearing Panel did not take it into consideration.

[98] We find the evidence referenced in paragraphs 444 to 447 of the Decision does provide a basis for the IIROC Hearing Panel's finding that Dingwall was supervising Nott's activity, rather than condoning it. Dingwall placed CDF.A on his Watch List, he gave Nott a "verbal warning" in connection with his trading in this stock, and the IIROC Hearing Panel ultimately found that "TDSI … monitored and detected the bidding improprieties of CDF.A" (Decision at para. 447).

[99] TDSI's Corporate Security & Investigations Final Report, eventually included in the Gatekeeper Report, states:

> [Cooper] was asked to review the trading activities of Ken Nott and Aidin Sadeghi to determine if they were involved in any manipulative and deceptive trading activities contrary to section 2 of [UMIR] that govern trading on the Toronto Stock Exchange and TSX Venture Exchange. This concern was brought to the attention of Compliance after Rob Dingwall, Ken Nott's supervisor on the trade desk, noted some unusual activity in Central Canada Foods (CDF.A – TSX/VE). Specifically, Trade Desk Management was concerned that Ken and Aidin may have been assisting each other in artificial pricing of securities in their respective inventory accounts.
>
> (IIROC Hearing Exhibit 1, tab 5C)

[100] We take the purpose of statements in the Decision with respect to the monitoring of Nemy and Nott, such as those referenced in paragraphs [78] and [98] above, as being to illustrate that a bid in the context of the market is difficult to identify as artificial, absent the presence of other factors (such as motivation and pattern of trading). In addition, the IIROC Hearing Panel goes further, in paragraph 335 of the Decision, to refute the assertion put forward by the TDSI Traders that if a bid was the context of the market it was definitively not artificial. The IIROC Hearing Panel "closes the book" on this position, but sets forth its understanding of how the TDSI supervisory system could fail to identify these bids as being artificial, despite finding the system adequate in an overall sense.

[101] Finally, the Decision directly references the allegation that TDSI "conducted the review of unfilled orders either very badly, not at all, or *condoned* the entry of late day closing bids ..." [emphasis added] (Decision, *supra* at para. 443). The IIROC Hearing Panel reviewed the specific monitoring of Nott and CDF.A and Nemy and TIC (Decision, *supra* at paras. 444 to 454) in some detail in connection with this serious allegation.

[102] We are not convinced that the IIROC Hearing Panel overlooked evidence that TDSI condoned or encouraged the entry of artificial bids that were in the context of the market. We find that the IIROC Hearing Panel directed itself to the allegation that the TDSI supervisors condoned the artificial bidding and considered the evidence on which IIROC Staff now relies. That the Decision does not refer, when analyzing the allegations against TDSI, to the specific evidence cited by IIROC Staff is not sufficient indication that they overlooked such evidence.

3. Did the IIROC Hearing Panel misapprehend evidence of TDSI representatives regarding what they considered to be manipulative activity or indicia of manipulative activity?

[103] Lastly, IIROC Staff alleges that the IIROC Hearing Panel misapprehended evidence of what individuals at TDSI considered to be manipulative activity or indicia of manipulative activity. We note that this alleged ground for intervention in the Decision overlaps substantially with the two previous allegations by IIROC Staff that the IIROC Hearing Panel overlooked or misapprehended evidence.

[104] With respect to this ground of review, both IIROC Staff and TDSI are in agreement that we should not place significant weight on the IIROC Hearing Panel's statement that TDSI had an "honest but erroneous interpretation of UMIR Policy", though for different reasons. IIROC submits we should place little weight on it because other evidence from Tucker and Dingwall shows that they understood that bidding in the context of the market without a bona fide intention to trade was contrary to UMIR. TDSI submits we should place little weight on it because the IIROC Hearing Panel had clearly come to its conclusion on other grounds. As noted below, we too have struggled to reconcile the IIROC Hearing Panel's statements in paragraphs 457 and 461 to 464 with its findings about TDSI's supervisory practices earlier in the Decision.

[105] As elaborated below (see paragraphs [126] to [143]), we read the findings in the Discussion section of the Decision where the IIROC Hearing Panel comments on TDSI's "honest but erroneous understanding of UMIR Policy" as a critique of the then-existing technological configuration of the compliance system at TDSI.

[106] Although statements at paragraphs 457 and 461 to 464 of the Discussion section may appear to suggest that the IIROC Hearing Panel's view was that TDSI did not consider bids within the context of the market to be capable of being artificial, there are other aspects of the Decision that clearly support the opposite conclusion. In this regard, we would point to the IIROC Hearing Panel's acceptance of Dingwall, Tucker and Cooper's testimony about the components of their approach to supervision, and we note in particular Dingwall and Tucker's testimony about what could constitute artificial bidding.

[107] We are not satisfied that the IIROC Hearing Panel did not consider the evidence concerning Tucker and Dingwall's approach to supervision when it drew its conclusion with respect to the allegations against TDSI. In fact, the record indicates that the IIROC Hearing Panel appropriately considered the specific evidence that IIROC Staff is alleging it overlooked or misinterpreted. In our view, taken overall, the Decision affirms that bidding in the context of the market is capable of being artificial and finds that the TDSI supervisors understood that. This finding is consistent with the IIROC Hearing Panel's conclusion that the supervisory system at TDSI was adequate.

[108] For the sake of completeness, we observe that we do not find IIROC Staff's argument concerning the position TDSI took before the IIROC Hearing Panel particularly relevant to our evaluation of the Decision and its treatment of the evidence.

B. Did the IIROC Hearing Panel err in law?

[109] IIROC Staff alleges that the IIROC Hearing Panel erred in law or proceeded on an incorrect principle by adopting as an explanation for why TDSI did not prevent or detect the TDSI Traders' artificial closing bid activity that TDSI made an "honest but erroneous interpretation of UMIR". IIROC Staff notes that the IIROC Hearing Panel found numerous artificial closing bids by the TDSI Traders and rejected the notion that bids in the context of the market cannot be considered artificial under UMIR. IIROC Staff submits that given this finding, it cannot follow that "an honest but erroneous interpretation" of UMIR 2.2 absolves TDSI of liability for a failure to supervise its traders as required by UMIR Rule 7.1 and Policy 7.1.

[110] Addressing this allegation requires that we consider closely the IIROC Hearing Panel's basis for its conclusion that TDSI had not failed to comply with its supervisory obligations. We first consider the framework of supervision requirements imposed by UMIR, then the IIROC Hearing Panel's application of these requirements to the facts before them. Finally, we address the comments related to supervision in the Discussion section of the Decision.

(a) What does UMIR require with respect to supervision?

[111] As set out above, UMIR Rule 7.1 requires, among other things, that Participants adopt written policies and procedures to ensure compliance with UMIR and each Policy.

[112] Part 3 of UMIR Policy 7.1, which deals with *Minimum Compliance Procedures for Trading on a Marketplace*, provides a list of non-exhaustive minimum compliance review procedures for monitoring trading. With respect to monitoring for Establishing Artificial Prices under UMIR Rule 2.2 and Policy 2.2, the following minimum compliance review procedures are listed:

- review tick setting trades entered at or near close
- look for specific account trading patterns in tick setting trades
- review accounts for motivation to influence the price
- review separately, tick setting trades by Market on Close (MOC) or index related orders

The same chart notes the following minimum compliance review procedures for a Grey or Watch List (as defined in paragraph [31], above):

- review for any trading of Grey or Watch List issues done by proprietary or employee accounts

[113] The guidelines provided by UMIR Policy 7.1 with respect to reviewing for activity covered by UMIR Rule 2.2 by and large do not speak to reviewing orders specifically, but rather focus on reviews of activity relating to trades. However, UMIR Rule 2.2 and Policy 2.2, compliance with which UMIR Policy 7.1 is intended to promote, expressly prohibits deceptive or manipulative activity for both orders and trades. Several Market Integrity Notices specifically remind Participants of their supervision responsibilities for detecting artificial prices in both trades and orders (MIN 2002-021, MIN 2003-027, MIN 2004-003, MIN 2005-011). In addition, MIN 2003-025, Guidelines on Trading Supervision Obligations states:

> Part 3 of Policy 7.1 sets out a framework for the **minimum** compliance procedures to be used to monitor trading on a marketplace. Participants are reminded that their compliance procedures should be modified to take account of:
>
> * new or amended Rules or Policies as made from time to time;
>
> * interpretations of UMIR as published by RS as a Market Integrity Notice.
>
> (emphasis in original)

In any case, TDSI did not dispute that the requirement to review traders' activity for the potential to artificially influence prices is not limited to a review of trades, but also includes orders.

(b) The IIROC Hearing Panel's application of UMIR requirements to TDSI's supervisory system

[114] TDSI's supervision system involved multiple components related to the review of traders' activity. In addition to real time trade desk supervision, the Decision notes that TDSI also employed additional levels of supervision and trade oversight. The Decision describes TDSI's two-tiered trade monitoring structure as follows:

> (a) Trade Desk Supervision, divided into:
>
> (i) real time Trade Desk Supervision of the Proprietary Traders;
>
> (ii) post trade Supervisory Group; and
>
> (b) Compliance Department post trade review (headed by Cooper)
>
> (Decision, *supra* at para. 403)

[115] We note that the systematic review procedures employed by the post trade Supervisory Group and the Compliance Department monitored trades, as opposed to orders. IIROC Staff's allegations with respect to inadequate supervision relate to TDSI's supervision of orders, rather than trades.

[116] The IIROC Hearing Panel considered the order-related activity reviewed by TDSI in its analysis of the Alleged Failure of Supervisory Practices and Procedures. The IIROC Hearing Panel found:

> During the Relevant Period a record of executed trades was available that enabled the Trade Supervision Group and Cooper's second tier Compliance to carry out systematic procedures for post trade reviews. However, there was no tool available to TDSI to monitor real time orders (i.e. bids and offers). Consequently, there was no systematic procedure, manual or otherwise to review orders. Tucker said:
>
> Q. So that your review of orders was really more either random or *ad hoc*? In other words, it didn't follow an articulated procedure?
>
> A. Recall there was no – there was no software available on the street to the participants to monitor real time orders so each participant, as part of their supervisory responsibilities, had their own methodology of reviewing orders. So I would say we reviewed orders, not on an *ad hoc* basis. It was done daily but it was certainly done in a manual type of fashion until we had – there was software commercially available to do it – to help us supplement the process.
>
> Q. But it was in the nature of a more random review; isn't that fair?
>
> A. Okay. That would be fair.
>
> (Decision, *supra* at para. 434)

[117] In our view, this excerpt from the Decision makes clear that the IIROC Hearing Panel's approach to the analysis of supervision was that a review of orders as well as trades was required as part of an adequate supervisory system and that the Panel turned its mind to understanding how, in the absence of comprehensive automated tools, TDSI fulfilled this obligation.

[118] The Decision identifies the three methods of oversight and review noted above: (1) real time, random monitoring of orders and trades through Trade Desk Supervision; (2) post trade software surveillance and review by the Supervisory Group; and (3) post trade software surveillance and review by the Compliance Department. In other words, the Decision recognizes that the supervisory system at TDSI involved multiple components, comprised of technological monitoring capability, manual, random monitoring and judgment on the part of the trade desk supervisors and the compliance group as to how to monitor effectively for many potential rule violations or improper behaviour.

[119] The IIROC Hearing Panel notes at several points in the Decision that identifying artificial bids in the context of the market is difficult. They point to the multiple factors that need to be considered including motive, and trading patterns (Decision, *supra* at para. 17). In fact, the IIROC Hearing Panel agreed that the core of the original allegations made by IIROC Staff and "really what this case is all about" was a "*consistent pattern* of Artificial Closing Bids" (Decision, *supra* at para. 53, emphasis in original). The IIROC Hearing Panel notes in paragraph 78 of the Decision that "this is not a typical stock manipulation case. The conduct of the Individual Respondents is much more subtle ..."

[120] The IIROC Hearing Panel further stressed the importance of looking at the "whole of the evidence" including the direct evidence of instant messages and telephone calls and circumstantial evidence of motive and trading patterns when it determined that the Individual Respondents had engaged in the improper practice of making artificial closing bids (Decision, *supra* at paras. 190 and 191).

[121] Emphasizing the difficulty in detecting a pattern of artificial bidding, the IIROC Hearing Panel found that "The time required to do this would have been completely beyond the capacity of Dingwall and Tucker ..." (Decision, *supra* at para. 440). They highlight the TDSI Compliance Department's review of trading by Nott and Sadeghi as an example of the time and difficulty involved:

> In affirmation of the time that would be required to establish a pattern of bidding one need only look at the testimony of Cooper describing what he did in July 2006 to evaluate whether eight traders, including Sadeghi and Nott, engaged in improper trading during the month of October 2005. Using a sophisticated software program called Compliance Explorer and applying his considerable skill, Cooper was able to compile sufficient information to re-create the October 2005 market data and do certain tests relating to late bids ("**October 2005 Analysis**") Cooper said this analysis took him "weeks" to perform. …
>
> (Decision, *supra* at para. 440).

[122] Specifically with respect to reviewing orders, the IIROC Hearing Panel concluded that with no real time software surveillance system available to monitor orders during the relevant period, random review was the only pragmatic alternative (Decision, *supra* at para. 437).

[123] We note that, notwithstanding the limitations with real time order supervision, TDSI was able to identify problems with the trading activity of two of the TDSI Traders, which became the subject matter of the IIROC hearing. Ultimately, TDSI's supervision policies and procedures enabled it to detect the impugned trading activity engaged in by Nott and Sadeghi. This led to further analysis on the part of the Compliance Department, which then identified potential issues with order activity, so called 'window dressing', and caused them to report on it to RS in the Gatekeeper Report.

[124] The IIROC Hearing Panel found that TDSI had an acceptable supervision system under UMIR Rule 7.1, despite the fact that TDSI was unable to identify the improper late day bidding in the context of the market. The IIROC Hearing Panel took into account the limitations of TDSI's supervision technology. However, it did so as part of its broader consideration of the overall supervision system in place at TDSI:

> … There was no software program available that was designed to detect late bids. There was no flag or signal on the monitor screens in the trade room that specifically alerted late bids. Having regard to these facts and the trade room scenario relating to detecting and investigating late bids (fully described in the Reasons below) the Panel finds that the random approach review employed by Dingwall and Tucker was realistic and reasonable. …
>
> (Decision, *supra* at para. 400)

[125] Ultimately, the IIROC Hearing Panel dismissed the allegations against TDSI after an adequate consideration of the requirements of UMIR Rule 7.1 and Policy 7.1 and how they were implemented by TDSI.

(c) Was TDSI's "erroneous understanding of UMIR" central to the IIROC Hearing Panel's conclusion?

[126] In its allegations that the IIROC Hearing Panel erred in law or proceeded on an incorrect principle, IIROC Staff focuses on the section of the Decision entitled "Discussion of the October 2005 Analysis". This section begins with the statement: "The following discussion of the October 2005 Analysis delineates the fundamental flaw in the TDSI compliance monitoring system" (Decision at para. 457). In this final section of the Decision, the IIROC Hearing Panel observes that:

> This approach to bidding explains why Dingwall and Tucker would not be concerned when a late bid triggered the Watch list. All Nemy's late bids in TIC were less than the price of the last trade (which they could easily see) and therefore in the context of the market
>
> Cooper did not develop a trading system. He analysed the existing system. His analysis confirms Nott's evidence that maintaining the price of a stock by bidding within the context of the market was the accepted standard at TDSI and not high closing.
>
> Dingwall and Tucker did not detect the late bids IIROC Staff says should have been identified because they were using an alert system that was different than the alert system prescribed by IIROC. The reason for the different alert systems was an honest but erroneous interpretation of UMIR Policy.
>
> (Decision, *supra* at paras. 462 to 464)

[127] IIROC Staff submits that paragraph 464 of the Decision shows that the IIROC Hearing Panel accepted that, because of their "honest but erroneous" interpretation of UMIR 2.2, TDSI did not adequately design or implement their supervisory system; that is, that it had a "fundamental flaw". We acknowledge that if the IIROC Hearing Panel had based its conclusion with respect to TDSI on a finding that TDSI had an honest but erroneous interpretation of UMIR, it may well have erred in law. As a result, we have considered carefully the meaning of paragraphs 462 to 464 of the Decision.

[128] We accept that there is some inconsistency between saying that TDSI had an erroneous interpretation of UMIR and therefore did not program an alert that would select bids that were in the context of the market for further scrutiny, and saying as the IIROC Hearing Panel does earlier in the Decision, that the method used to supervise orders was reasonable. The meaning of paragraph 464 is further confused by the fact that, in answer to a question posed at the Commission hearing, IIROC Staff acknowledged that there is no "alert system prescribed by IIROC" set out in UMIR.

[129] In our view, however, the IIROC Hearing Panel's earlier conclusion with respect to the allegations against TDSI is based not only on considering the alerts programmed into the compliance system by TDSI, which it found to be flawed, but on TDSI's overall system of supervision, which provided additional layers of oversight (see paragraphs [114] and [118]).

[130] We do not find that the IIROC Hearing Panel's reference to TDSI's "erroneous interpretation of UMIR Policy" was central to its findings with respect to the adequacy of TDSI's supervision. The IIROC Hearing Panel makes this observation, having already considered the four allegations by IIROC Staff of failure to supervise, and after having concluded that all four allegations should be dismissed.

[131] We take the view that the IIROC Hearing Panel did not dismiss the allegations of failure to supervise on the basis of TDSI's honest but erroneous interpretation of UMIR 2.2, but on the basis of what they considered to be adequate policy and practice with respect to detecting inappropriate bidding activity.

[132] We see no error in law or principle in the IIROC Hearing Panel's conclusion that TDSI's trading supervision policies and procedures were in accordance with the requirements of UMIR Rule 7.1 and Policy 7.1. The IIROC Hearing Panel properly considered the policies and procedures in place at TDSI and the requirements of UMIR Rule 7.1 and Policy 7.1, taking into account the context of standards in the industry and:

> During the Relevant Period TDSI implemented written policies and procedures that covered its entire business to ensure compliance with UMIR Rules and UMIR Policy including the Rules and Policy governing market manipulation.
>
> Cooper said that the TDSI system of supervision and compliance was consistent with industry standards and practice elsewhere on the street. The Panel members are in accordance with this statement.
>
> (Decision, *supra* at paras. 407 and 408)

[133] In addition, in its allegations, IIROC Staff point to the proposition advanced by TDSI and the TDSI Traders that the primary determinant of whether a bid was artificial was whether it was "in the context of the market". IIROC Staff states that "This argument was rejected by the Hearing Panel in the Decision as it relates to the manipulative bidding activity of the five traders but nevertheless becomes the cornerstone of the hearing Panel's reasons for excusing TDSI's supervisory failures" (Factum of IIROC Staff at para. 95).

[134] We accept IIROC Staff's submission that the fact that a bid is in the context of the market is not sufficient to determine that it is not artificial. This position is amply supported by the findings and statements of the IIROC Hearing Panel in the Decision itself and by case law cited to us by IIROC Staff.

[135] For example, in a previous RS decision, *In the matter of Michael Bond*, RS Decision dated March 7, 2007 (RS 2007-001) ("***Bond***"), a proprietary trader was found to have entered orders to create an artificial bid price in three stocks. The hearing panel in Bond found that by placing orders that were not consistent with actual demand for the stocks, Bond contravened UMIR Rule 2.2 and Policy 2.2:

> The Panel notes that orders placed so late in the trading session for thinly traded stocks were unlikely to be filled. In the absence of any other explanations, the panel is not satisfied with Bond's explanation that he wished to acquire additional stock and concludes that his intention was to create an artificial bid to influence management's perception and/or to influence the market's perception in general.
>
> (*Bond*, *supra* at page 5)

[136] Similarly, in the 1990 Toronto Stock Exchange decision *Re D.K. Trevor-Wilson*, [1990] T.S.E.D.D. No. 20, a panel of the Toronto Stock Exchange found that a trader who placed bids less than the price of the last sale contravened Toronto Stock Exchange prohibitions against establishing artificial prices. That decision states at page 5:

> A statement made to Mr. A. Derek Hatfield, an Exchange investigator by Mr. Trevor-Wilson on January 30, 1990 which was admitted in evidence, in part, reads:
>
> Q. On the 11/Jan/90, you put in a bid of $1.00 at 15.59.6, what can you tell me about this?
>
> A. Someone had put in $0.01 for 10,000 shares which is ridiculous. There were no other bids and I waited all day to see if other bids would show. So I put in a bid of $1.00 in order to make my position in the stock not be worthless on the books bearing in mind that I was well under the last sale of the stock which was at $1.25 on the 08/Jan/90. The exactly same thing happened on the 12th and the 15th only the prices would be different, but all below the last sale. They all were done for the same reason, the evaluation of my account for my firm. This to me is not a new thing, its [*sic*] a very common practice on the street, to make inventory positions look better on a daily, weekly or monthly basis as long as you don't go over the last sale which is illegal.
>
> We think that this statement makes it clear that bids were made by him for the purpose of increasing the inventory value of the shares which he had purchased and not for the purpose of establishing a genuine market in the shares.

[137] However, we do not agree with IIROC Staff's contention that a rejection of the proposition that a bid in the context of the market could be artificial was "the cornerstone of the hearing Panel's reasons for excusing TDSI's supervisory failures" (Factum of IIROC Staff at para. 95). In fact, throughout the entire analysis of the four allegations against TDSI (Decision, *supra* at paras. 393 to 456) the only mention of the proposition that a bid could not be artificial provided it was in the context of the market occurs in paragraph 369 where the IIROC Hearing Panel reiterates its dismissal. Contrary to IIROC Staff's position, it does not appear to us that the argument regarding the "context of the market" formed the basis for the dismissal by the IIROC Hearing Panel of the allegations concerning TDSI's supervision.

[138] In its Decision, the IIROC Hearing Panel delineated several factors that would contribute to a finding of artificial bidding, with the bid price being one element. The IIROC Hearing Panel considers evidence from Cooper that factors other than "the context of the market" would be used to detect artificial bidding. We see that in the case of Nott and Sadeghi, when others factors were present, TDSI did identify late bids in the context of the market as potentially artificial.

[139] Rather than being the "cornerstone" of the IIROC Hearing Panel's Decision with respect to TDSI, we find that the Discussion amounts to a critique of one element of TDSI's after-the-fact compliance monitoring system. The IIROC Hearing Panel notes that the automated, after-the-fact monitoring system implemented by TDSI was not programmed to select late bids for further review if they were priced below the last sale. It does not invalidate the overall finding of adequate supervision for the IIROC Hearing Panel to express a criticism of one element of that regime.

[140] Finally, we acknowledge that the concluding statement of the Discussion, "[t]he approach to bidding set out in these reasons closes the book on the practice of bidding within the context of the market in order to maintain the value of a stock and opens a new book of bidding with true market supply and demand" (Decision, *supra* at para. 465), is somewhat hyperbolic and is at odds with IIROC rules, RS warnings and previous cases. However, we do not take this statement to mean that the IIROC Hearing Panel considered that the practice of artificial bidding within the context of the market had been countenanced by TDSI or IIROC rules or that its Decision was novel in endorsing a new practice of bidding in accordance with "true market supply and demand".

[141] Notwithstanding the finding in the Decision that TDSI met its obligations under UMIR Rule 7.1 and Policy 7.1, it appears to us that the IIROC Hearing Panel took the opportunity to clearly reinforce IIROC's expectation that Participants should put in place adequate procedures and technologies to supervise for closing orders that are in the context of the market, but are nonetheless artificial.

[142] We do not agree that the IIROC Hearing Panel erred in finding that the TDSI Traders breached UMIR Rule 2.2 and Policy 2.2, while not making a corresponding finding against TDSI for its failure to supervise the TDSI Traders. As noted above, the IIROC Hearing Panel recognized the multiple components in TDSI's system of supervision: the surveillance technology, as well as the additional layer of supervision requiring judgment by the trade desk supervisors and by Compliance, and found them to be adequate.

[143] Ultimately, we accept that the IIROC Hearing Panel came to its conclusion about the adequacy of TDSI's supervision on grounds other than that TDSI had an erroneous understanding of what they were supervising for. The fatal flaw referenced by the IIROC Hearing Panel refers to only one element of a compliance and supervision system, and not the system in its entirety. The IIROC Hearing Panel analyzed various parts of TDSI's compliance and supervisory system and, considering them together, concluded that the system was acceptable.

[144] For these reasons, we do not find that the IIROC Hearing Panel erred in law or proceeded on an incorrect principle when it dismissed the allegations against TDSI.

VI. CONCLUSION

[145] Over a 24-day hearing, the IIROC Hearing Panel heard substantial evidence, including testimony by individuals principally responsible for supervision of the TDSI Traders. Following the hearing, the IIROC Hearing Panel issued its lengthy Decision, in which its analysis with respect to all the allegations is set out. The evidence relied on is laid out in great detail by the IIROC Hearing Panel in its Decision, and the conclusion following consideration of that evidence, that TDSI had adequate supervisory practices and procedures, is defensible.

[146] While it is possible that we may have come to a different conclusion on the evidence, it is not our role to second-guess the reasoned Decision of the IIROC Hearing Panel. We do not find anything so objectionable about the Decision that would provide the grounds required to intervene in the Decision.

[147] Nor do we find that the IIROC Hearing Panel's statement regarding the erroneous understanding of UMIR was central to its findings with respect to TDSI's supervision of the TDSI Traders. The Decision makes clear the obligation of Participants to supervise both trades and orders, including orders that are in the context of the market, so as to comply with their obligations under UMIR Rule 7.1 and Policy 7.1. We do not find an error of law or principle in the IIROC Hearing Panel's Decision.

[148] The Application is dismissed.

Dated at Toronto this 19th day of July, 2013.

"Mary G. Condon" "Judith N. Robertson"

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
Northern Sun Exploration	11 Mar 09	23 Mar 09	23 Mar 09	19 Jul 13
Magnum Hunter Resources Corporation	03 May 13	15 May 13	15 May 13	19 Jul 13
Gryphon Gold Corporation	23 July 13	02 Aug 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

THERE ARE NO ITEMS FOR THIS WEEK.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Majescor Resources Inc.	15 Jul 13	26 Jul 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	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
06/28/2013	11	Adcentricity Corporation - Debentures	400,000.00	11.00
07/05/2013	1	Alturas Minerals Corp. - Common Shares	242,841.35	4,857,027.00
06/28/2013	1	American Solar Direct Holdings Inc. - Units	526,500.00	250,000.00
06/28/2013	1	Amex Exploration Inc. - Common Shares	403,000.00	3,100,000.00
07/02/2013	1	Audatex North America, Inc. - Notes	3,159,000.00	1.00
07/05/2013	7	Barclays Bank PLC - Notes	2,075,000.00	7.00
07/04/2013	13	Benevity Social Ventures, Inc. - Units	1,500,000.00	1,500.00
06/27/2013	18	BluMetric Environmental Inc. - Debentures	1,430,000.00	1,430.00
06/30/2013	2	Boreal Agrominerals Inc. - Common Shares	15,000.00	75,000.00
07/03/2013	3	Bryant Resources Inc. - Common Shares	250,000.00	250,000.00
01/15/2013	29	Camrose Limited partnership - Units	2,600,000.00	145.00
07/03/2013	7	Canadian Oil Recovery & Remediation Enterprises Ltd. - Units	275,000.41	2,037,040.00
07/11/2013	2	Canadian Quantum Energy Corporation - Debentures	150,000.00	2.00
07/03/2013	94	CanFirst Capital Industrial Partnership V.L.P. - Units	37,150,000.00	94.00
06/28/2013	164	Centurion Apartment Real Estate Investment Trust - Units	8,739,309.00	749,511.89
07/08/2013	14	Cline Mining Corporation - Bonds	9,490,998.00	14.00
06/18/2013	1	Coty Inc. - Common Shares	2,233,218.75	125,000.00
06/17/2013	30	Diamcor Mining Inc. - Common Shares	1,984,730.00	1,587,784.00
07/03/2013	1	Digital Shelf Space Corp. - Units	459,999.55	9,199,991.00
07/02/2013	2	Ecuador Bancorp Inc. - Common Shares	55,000.00	550,000.00
06/18/2013	670	Element Financial Corporation (Amended) - Special Warrants	300,566,875.00	29,612,500.00
07/10/2013	7	Empire Industries Ltd. - Units	3,000,000.00	60,000,000.00
07/02/2013	9	Everest Gold Inc. - Units	67,000.00	670,000.00
07/05/2013	2	First Reliance Real Estate Investment Trust - Units	110,000.00	8,774.83

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
07/02/2013	5	Foremost Mortgage Trust - Debt	343,320.00	5.00
07/02/2013	3	HD Supply Holdings, Inc. - Common Shares	6,632,500.00	53,191,489.00
07/05/2013	13	Highland Therapeutics Inc. - Common Shares	4,024,398.40	470,140.00
06/28/2013	18	Karma Athletics Ltd. - Common Shares	1,500,000.00	18.00
06/27/2013	1	KingSett Canadian Real Estate Income Fund LP - Units	750,000.00	568.66
07/04/2013 to 07/05/2013	2	League IGW Real Estate Investment Trust - Units	80,379.00	2.00
06/03/2013	1	League IGW Real Estate Investment Trust - Units	80,000.00	80,000.00
06/27/2013	2	Lomiko Metals Inc. - Flow-Through Shares	499,999.92	7,142,856.00
06/18/2013	44	Lucky Strike Resources Ltd. - Units	300,000.00	6,000,000.00
04/30/2013 to 05/10/2013	5	Mantra Venture Group Ltd. - Units	57,956.20	406,200.00
06/28/2013	6	Maple Leaf Sports & Entertainment Ltd. - Notes	299,928,000.00	2,999,280.00
04/21/2013 to 05/30/2013	21	MCF Securities Inc. - Common Shares	1,802,474.69	1,802,474.69
05/19/2013 to 06/16/2013	5	MCF Securities Inc. - Units	528,398.15	528,398.15
05/15/2013 to 06/13/2013	11	Noble Mineral Exploration Inc. - Common Shares	88,331.44	1,741,628.00
07/09/2013	16	ONEergy Inc. Formerly Look Communications Inc. - Common Shares	8,999,999.96	30,446,767.00
07/03/2013	1	Pacific Ridge Exploration Ltd. - Common Shares	10,000.00	2,000,000.00
06/28/2013	7	Peraso Technologies Inc. - Preferred Shares	4,000,000.00	7.00
06/20/2013	5	Peregrine Diamonds Ltd. - Common Shares	397,499.90	1,135,714.00
04/17/2013	36	Prima Fluorspar Corp. - Common Shares	1,628,850.00	0.00
05/10/2012 to 02/14/2013	24	Provisus Canadian Equity Corporate Class - Units	537,813.90	50,936.14
04/03/2013 to 04/09/2013	10	Redstone Investment Corporation - Notes	419,000.00	N/A
06/28/2013	3	Rna Diagnostics Inc. - Common Shares	127,000.00	97,693.00
07/05/2013	1	ScribeStar Ltd. - Common Shares	29,096.92	5,771.00
07/05/2013	10	Sendero Mining Corp. - Units	445,000.00	4,450,000.00
06/28/2013	13	Sierra Iron Ore Corporation - Warrants	893,080.00	13.00
07/04/2013	5	SLAM Exploration Ltd. - Flow-Through Units	145,000.00	2,900,000.00
07/08/2013	1	Solarvest BioEnergy Inc. - Common Shares	100,000.00	1.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
06/28/2013	3	Spire Real Estate Limited Partnership - Units	1,400,000.00	12,232.94
07/05/2013	2	Spire Real Estate Limited Partnership - Units	100,000.00	880.26
07/05/2013	2	Spire US Limited Partnership - Units	735,532.80	6,203.20
07/05/2013	1	St Andrew Goldfields Ltd. - Common Shares	18,300.00	50,000.00
07/02/2013 to 07/04/2013	3	Stoney Range Industrial Limited Partnership - Notes	186,343.00	186,343.00
07/02/2013 to 07/04/2013	2	Stoney Range Industrial Limited Partnership - Units	52,571.00	52,571.00
06/25/2013	74	Teckmine Industries, Inc. - Common Shares	2,981,749.63	11,345,000.00
06/28/2013	1	TransGaming Inc. - Units	300,000.00	3,000,000.00
06/17/2013	1	Tremor Video, Inc. - Common Shares	1,575,000.00	7,500,000.00
07/02/2013 to 07/05/2013	17	UBS AG, Jersey Branch - Certificates	6,496,973.12	17.00
07/08/2013 to 07/12/2013	23	UBS AG, Jersey Branch - Certificates	9,905,110.96	23.00
07/10/2013 to 07/11/2013	2	UBS AG, Zurich - Certificates	291,217.28	2.00
07/03/2013	16	UMC Financial Management Inc. - Exchangeable Shares	15,000,000.00	16.00
07/09/2013	5	Uragold Bay Resources Inc. - Units	351,000.00	5.00
07/04/2013	14	Walton Income 7 Investment Corporation - Common Shares	375,500.00	1,400.00
07/02/2013	1	WesternZagros Resources Ltd. - Notes	400,000.00	400.00
07/02/2013	26	Wild Rose Brewery Ltd. - Common Shares	591,255.00	812,340.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AGF U.S. AlphaSector Class
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated July 17, 2013
NP 11-202 Receipt dated July 18, 2013
Offering Price and Description:
Mutual Fund Series, Series F, Series O and Series Q shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
AGF Investments Inc.
Project #2082025

Issuer Name:
Aston Hill Financial Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 19, 2013
NP 11-202 Receipt dated July 19, 2013
Offering Price and Description:
$19,040,000.00 - 13,600,000 Subscription Receipts, each representing the right to receive one Common Share
Price: $1.40 per Subscription Receipt
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
GMP SECURITIES L.P.
FIRSTENERGY CAPITAL CORP.
Promoter(s):
-
Project #2086052

Issuer Name:
Blue Ribbon Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated July 17, 2013
NP 11-202 Receipt dated July 18, 2013
Offering Price and Description:
Maximum: $ * - * Units
Price: $ * per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Canaccord Genuity Corp.
Dundee Securities Ltd.
Mackie Research Capital Corporation
Promoter(s):
-
Project #2085458

Issuer Name:
Builders Capital Mortgage Corp.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated July 17, 2013
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
Minimum: $20,000,000.00 - * Subscription Receipts
Maximum: $40,000,000.0 - * Subscription Receipts
Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
MGI Securities Inc.
Mackie Research Capital Corporation
Macquarie Private Wealth Inc.
Burgeonvest Bick Securities Limited
Leede Financial Markets Inc.
PI Financial Corp.
Promoter(s):
Builders Capital Management Corp.
Project #2046232

Issuer Name:
FAM Real Estate Investment Trust
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated July 19, 2013
NP 11-202 Receipt dated July 19, 2013
Offering Price and Description:
$20,070,000.00 - 2,230,000 Units
Price $9.00 per Offered Unit
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CANACCORD GENUITY CORP.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
EURO PACIFIC CANADA INC.
DUNDEE SECURITIES LTD.
DESJARDINS SECURITIES INC.
Promoter(s):
-
Project #2086150

Issuer Name:
IAMGOLD Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated July 22, 2013
NP 11-202 Receipt dated July 22, 2013
Offering Price and Description:
US$1,000,000,000.00
Common Shares
First Preference Shares
Second Preference Shares
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2086352

Issuer Name:
LEAGUE Financial Partners Inc.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary Long Form Non-Offering Prospectus dated July 22, 2013
NP 11-202 Receipt dated July 22, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
League Assets Limited Partnership
Project #2026054

Issuer Name:
Scotia Income Advantage Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated July 12, 2013
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
Series M Units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
Scotia Asset Management L.P.
Project #2085046

Issuer Name:
TORC Oil & Gas Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 22, 2013
NP 11-202 Receipt dated
Offering Price and Description:
$210,066,000.00 -133,800,000 Subscription Receipts each representing the right to receive one Common Share
Price: $1.57 per Subscription Receipt
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Macquarie Capital Markets Canada Ltd.
RBC Dominion Securities Inc.
FirstEnergy Capital Corp.
GMP Securities L.P.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
CIBC World Markets Inc.
Cormark Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #2086443

Issuer Name:
WB III Acquisition Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated July 22, 2013
NP 11-202 Receipt dated July 22, 2013
Offering Price and Description:
$500,000.00 - 5,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
MACQUARIE PRIVATE WEALTH INC.
Promoter(s):
Ronald D. Schmeichel
Project #2086435

Issuer Name:
Difference Capital Financial Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 18, 2013
NP 11-202 Receipt dated July 19, 2013
Offering Price and Description:

Up to $50,002,500.00
Up to 13,334,000 Common Shares
Per Common Share $3..75
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Canaccord Genuity Corp.
TD Securities Inc.
Dundee Securities Ltd.
GMP Securities L.P.
Byron Capital Markets Ltd.
Global Securities Corporation
Promoter(s):
-
Project #2075980

Issuer Name:
Donnycreek Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated July 16, 2013
NP 11-202 Receipt dated July 16, 2013
Offering Price and Description:
$16,800,000.00
8,000,000 Common Shares
Price: $2.10 per Common Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
PARADIGM CAPITAL INC.
BEACON SECURITIES LIMITED
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #2083375

Issuer Name:
Series A, Series B, Series F and Series X shares of:
Front Street Resource Growth and Income Class (formerly Front Street Resource Class)
Front Street Diversified Income Class
Front Street Growth Class
Front Street Special Opportunities Class
Front Street Global Opportunities Class
Front Street Growth and Income Class
Front Street Money Market Class
and
Series A, Series B and Series F shares of:
Front Street DCA Special Opportunities Class
(Each a Fund of Front Street Mutual Funds Limited)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated July 8, 2013
NP 11-202 Receipt dated July 18, 2013
Offering Price and Description:
Series A, B, F and X shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
FRONT STREET CAPITAL 2004
Project #2067903

Issuer Name:
GLG EM Income Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated July 8, 2013
NP 11-202 Receipt dated July 18, 2013
Offering Price and Description:
Class P Units, Class Q Units, Class R Units and Class S Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2045954

Issuer Name:
iShares U.S. High Yield Bond Index Fund (CAD-Hedged)
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated July 15, 2013 to the Long Form Prospectus dated April 9, 2013
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Blackrock Asset Management Canada Limited
Promoter(s):
-
Project #2026766

Issuer Name:
Mackenzie Universal Canadian Resource Fund (Series A, E, F, J, G and O Securities)
Mackenzie Universal Gold Bullion Class*
Mackenzie Universal Precious Metals Fund (Series A, F and O Securities)
Mackenzie Universal World Precious Metals Class*
Mackenzie Universal World Resource Class* (Series A, E, F, J, O and U Securities)
(Each is a class of Mackenzie Financial Capital Corporation)
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated July 12, 2013 to the Annual Information Form dated September 28, 2012
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
-
Series A, E, F, J, G, O and U Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
LBC Financial Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #1952339

Issuer Name:
Mackenzie Universal Canadian Resource Fund (Series LB Securities)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated July 12, 2013 to the Annual Information Form dated November 28, 2012
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
Series LB Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
LBC Financial Services Inc.

Promoter(s):
Mackenzie Financial Corporation
Project #1972166

Issuer Name:
Orbite Aluminae Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated July 15, 2013
NP 11-202 Receipt dated July 16, 2013
Offering Price and Description:
Minimum Offering: 50,000,000 Units ($35,000,000.00)
Maximum Offering: 71,428,572 Units ($50,000,000.00)
and
Issuance of up to 14,525,146 Class A Shares in Settlement of Certain Outstanding Debts
Underwriter(s) or Distributor(s):
Euro Pacific Canada Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #2079695

Issuer Name:
Redwood Energy Income Class (formerly Redwood Ark Energy Class)
Principal Regulator - Ontario
Type and Date:
Amendment No. 2 dated May 27, 2013 to the Simplified Prospectus of the above issuer dated November 22, 2012 (amendment no. 2) and Amendment No. 3 dated May 27, 2013 to the Annual Information Form of dated November 22, 2012 (amendment no. 3)
NP 11-202 Receipt dated July 19, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #1969989

Issuer Name:
Stonegate Agricom Ltd.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 17, 2013
NP 11-202 Receipt dated July 17, 2013
Offering Price and Description:
A minimum of $10,000,000.00
A minimum of 33,333,333 Units
Price: $0.30 per Unit
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Cormark Securities Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #2076284

Issuer Name:
APMEX Physical - 1 oz. Gold Redeemable Trust
Principal Jurisdiction - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Base Prep Prospectus dated February 14, 2013, amending and restating the Amended and Restated Preliminary Long Form Base Prep Prospectus dated November 26, 2012, amending and restating the Preliminary Long Form Base Prep Prospectus dated August 23, 2012.
Withdrawn on July 18, 2013
Offering Price and Description:
U.S.$* - *
Minimum Subscription: U.S.$1,000 -100 Units
Price U.S.$10.00 per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Stifel Nicolaus Canada Inc.
Promoter(s):
APMEX Precious Metals Management Services, Inc.
Project #1949829

Issuer Name:
Canada Dominion Resources 2013 Limited Partnership
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 27, 2013
Closed on July 19, 2013
Offering Price and Description:
$50,000,000 (Maximum)
$10,000,000 (Minimum)
2,000,000 Limited Partnership Units
Price per Unit: $25.00
Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Dundee Securities Ltd.
National Bank Financial Inc.
TD Securities Inc.
Macquarie Capital Markets Canada Ltd.
Canaccord Genuity Corp.
Manulife Securities Incorporated
Raymond James Ltd.
Desjardins Securities Inc.
GMP Securities L.P.
Promoter(s):
Goodman Investment Counsel Inc.
Canada Dominion Resources 2013 Corporation
Project #2020322

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Seamark Asset Management (2013) Ltd.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	July 11, 2013
Change in Name	From: Seamark Asset Management Ltd. To: GrowthWorks Enterprises Ltd.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	July 12, 2013
Change in Registration Category	GrowthWorks Enterprises Ltd.	From: Investment Fund Manager, Exempt Market Dealer and Portfolio Manager To: Mutual Fund Dealer, Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	July 15, 2013
New Registration	AlphaEngine Global Investment Solutions LLC	Commodity Trading Manager	July 17, 2013
New Registration	AIP Asset Management Inc.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	July 18, 2013
Voluntary Surrender of Registration	CFI Capital Inc.	Investment Fund Manager	July 19, 2013
New Registration	Navroc Investment Management Inc.	Portfolio Manager	July 22, 2013
Voluntary Surrender of Registration	IBS Capital S.E.N.C.	Exempt Market Dealer	July 22, 2013

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Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 OSC Staff Notice of Request for Comment – MFDA – Proposed Amendments to MFDA By-Law No. 1

OSC STAFF NOTICE OF REQUEST FOR COMMENT

MUTUAL FUNDS DEALERS ASSOCIATION OF CANADA (MFDA)

AMENDMENTS TO MFDA BY-LAW NO. 1

The MFDA and British Columbia Securities Commission (BCSC) are publishing for public comment proposed amendments to the MFDA By-law No. 1. The objective of the amendments is to amend the MFDA By-law No.1 to reflect the replacement of Part II of the *Canada Corporations Act* (CCA) with the new *Canada Not-for-profit Corporations Act* (NFP Act). A copy of the MFDA Notice including the amended documents was also published on our website at http://www.osc.gov.on.ca.

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Notice from the Office of the Secretary 7367
Order – s. 127 7406
OSC Reasons (Reasons and Decision) – s. 127 7446

2150129 Ontario Inc.,
Notice from the Office of the Secretary 7367
Order – s. 127 7406
OSC Reasons (Reasons and Decision) – s. 127 7446

AIP Asset Management Inc.
New Registration 7593

Alpha Exchange Inc.
Revocation Order – s. 144 7411

AlphaEngine Global Investment Solutions LLC
New Registration 7593

AMTE Services Inc.
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Aston Hill Senior Gold Producers Income Corp.
Order – s. 1(6) of the OBCA 7402

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Chan, Allen
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