The Ontario Securities Commission

OSC Bulletin

August 14, 2014

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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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Notices / News Releases

1.1.1 Notice of Ministerial Approval of Amendments to Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting

NOTICE OF MINISTERIAL APPROVAL
OF AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 91-507
TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING

August 14, 2014

Amendments to Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (the Rule Amendment) have received Ministerial approval pursuant to section 143.3(3)(a) of the Securities Act (Ontario). The Amendments were made by the Commission on June 26, 2014. On June 26, 2014, the Commission also adopted changes to Companion Policy 91-507CP to Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (the Policy Changes).

The Rule Amendments and Policy Changes (collectively, the Amendments) were published in the Bulletin on June 26, 2014. See (2014) 37 OSCB 6069. The Amendments are effective September 9, 2014. The text of the Rule Amendments is reproduced in Chapter 5 of this Bulletin.

1.4 Notices from the Office of the Secretary

1.4.1 Wealth Stewards Portfolio Management Inc. and Sushila Lucas

FOR IMMEDIATE RELEASE
August 6, 2014

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

AND

IN THE MATTER OF
WEALTH STEWARDS PORTFOLIO MANAGEMENT INC.
and SUSHILA LUCAS

TORONTO – The Commission issued an Order in the above named matter with certain provisions.

The Hearing and Review scheduled pursuant to the Stay Order is adjourned to September 25, 2014 commencing at 10:00 a.m. and shall continue on September 26, 2014 commencing at 10:00 a.m.

A copy of the Order dated August 1, 2014 is available at www.osc.gov.on.ca.

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1.4.2 Gold-Quest International and Sandra Gale

FOR IMMEDIATE RELEASE
August 6, 2014

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL and SANDRA GALE

TORONTO – The Commission issued an Order in the above named matter which provides that the confidential pre-hearing conference schedule for August 13, 2014 at 1:00 p.m. is vacated and the sanctions and costs hearing in this matter shall take place on September 10, 2014 at 11:00 a.m.

A copy of the Order dated August 6, 2014 is available at www.osc.gov.on.ca.

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1.4.3 Tuckamore Capital Management Inc.

FOR IMMEDIATE RELEASE
August 7, 2014

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

AND

IN THE MATTER OF
TUCKAMORE CAPITAL MANAGEMENT INC.

AND

IN THE MATTER OF
A DECISION OF THE TORONTO STOCK EXCHANGE

TORONTO – TAKE NOTICE THAT a hearing will be held today at 10:00 a.m. to consider motions in connection to the above named matter. The hearing will be held at the offices of the Commission at 20 Queen Street West, Toronto.

A copy of a Request for a Hearing and review by Access Holdings Management Company LLC dated August 4, 2014 is available at www.osc.gov.on.ca.

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1.4.4 Access Holdings Management Company LLC and Tuckamore Capital Management Inc.

FOR IMMEDIATE RELEASE
August 7, 2014

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

AND

IN THE MATTER OF
ACCESS HOLDINGS MANAGEMENT COMPANY LLC
and TUCKAMORE CAPITAL MANAGEMENT INC.

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

1. The Interim Application is dismissed;

2. Tuckamore, Access, Staff or any person directly affected by this Order, may apply to the Commission for directions as to the interpretation and application of the undertakings referred to in this Order or any other matter related to this Order.

A copy of the Order dated August 1, 2014 is available at www.osc.gov.on.ca.

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1.4.5 Portfolio Capital Inc. et al.

FOR IMMEDIATE RELEASE
August 7, 2014

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON
and AMY HANNA-ROGERSON

TORONTO – The Commission issued an Order in the above noted matter which provides that the Respondents shall serve and file any supplementary or restated written closing submissions by 5:00 p.m. E.D.T. on August 18, 2014, and Staff shall serve and file any reply written closing submissions, if necessary, by 5:00 p.m. E.D.T. on September 5, 2014.

A copy of the Order dated August 7, 2014 is available at www.osc.gov.on.ca.

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1.4.6 Tuckamore Capital Management Inc.

FOR IMMEDIATE RELEASE
August 8, 2014

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

AND

IN THE MATTER OF
TUCKAMORE CAPITAL MANAGEMENT INC.

AND

IN THE MATTER OF
A DECISION OF THE TORONTO STOCK EXCHANGE

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Disclosure and Other Orders dated August 8, 2014 is available at www.osc.gov.on.ca.

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1.4.7 Ground Wealth Inc. et al.

FOR IMMEDIATE RELEASE
August 11, 2014

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

AND

IN THE MATTER OF
GROUND WEALTH INC., MICHELLE DUNK,
ADRION SMITH, JOEL WEBSTER, DOUGLAS DeBOER,
ARMADILLO ENERGY INC.,
ARMADILLO ENERGY, INC., and
ARMADILLO ENERGY, LLC
(aka ARMADILLO ENERGY LLC)

TORONTO – The Commission issued an Order in the above noted matter which provides that *viva voce* evidence shall take place over 10 days commencing on January 26, 2015 and continuing on January 28 to 30, February 2 to 6 and February 9, 2015.

A copy of the Order dated August 8, 2014 is available at www.osc.gov.on.ca.

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1.4.8 Paul Azeff et al.

FOR IMMEDIATE RELEASE
August 11, 2014

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW,
MITCHELL FINKELSTEIN, HOWARD JEFFREY MILLER
AND MAN KIN CHENG (a.k.a. FRANCIS CHENG)

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

A copy of the Oral Reasons and Decision dated August 8, 2014 is available at www.osc.gov.on.ca.

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1.4.9 Crown Hill Capital Corporation and Wayne Lawrence Pushka

FOR IMMEDIATE RELEASE
August 11, 2014

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

AND

IN THE MATTER OF CROWN HILL CAPITAL CORPORATION and WAYNE LAWRENCE PUSHKA

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

A copy of the Reasons For Decision on Sanctions and Costs dated August 8, 2014; and the Order on Sanctions and Costs dated August 8, 2014 are available at www.osc.gov.on.ca.

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1.4.10 Pro-Financial Asset Management Inc.

FOR IMMEDIATE RELEASE
August 12, 2014

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 hearing is adjourned to August 26, 2014 at 10:00 a.m.

2. The Temporary Order as amended by previous Commission orders is extended to August 29, 2014.

A copy of the Order dated August 8, 2014 is available at www.osc.gov.on.ca

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Purpose Investments Inc. and Purpose Enhanced US Equity Fund

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – commodity pool subject to National Instrument 81-104 – Commodity Pools granted an exemption from National Instrument 81-102 – Mutual Funds to borrow an amount up to 35% of net assets, subject to certain conditions and requirements.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.6(a), 19.1.
National Instrument 81-104 Commodity Pools.

July 23, 2014

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
PURPOSE INVESTMENTS INC.
(the Filer)

AND

IN THE MATTER OF
PURPOSE ENHANCED US EQUITY FUND
(the Fund)

DECISION

I. BACKGROUND

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund, which is a separate class of shares of Purpose Fund Corp., for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting the Fund relief from subsection 2.6(a) of National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) (the **Requested Relief**) to permit the Fund to borrow an amount not exceeding 35% of the Fund's net asset value (**NAV**).

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

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

(b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

II. 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.

(a) **Basket** means, in relation to the ETF Shares (defined herein), a group of securities or assets representing the constituents of the Fund.

(b) **Dealer** means a dealer (that may or may not be a Designated Broker) that enters into a continuous distribution agreement with the Filer or an affiliate of the Filer on behalf of the Fund, pursuant to which the Dealer may subscribe for and purchase ETF Shares from the Fund.

(c) **Designated Broker** means a dealer that enters into an agreement with the Filer or an affiliate of the Filer on behalf of the Fund to perform certain duties in relation to the ETF Shares of the Fund.

(d) **Exchange** means the Toronto Stock Exchange (**TSX**) or another stock exchange recognized by the Ontario Securities Commission.

(e) **Prescribed Number of ETF Shares** means, in relation to the Fund, the number of ETF Shares of the Fund determined from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

(f) **Shareholder** means a holder of one or more ETF Shares or Mutual Fund Shares of the Fund.

Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.

III. REPRESENTATIONS

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

1. The Filer is a corporation incorporated under the laws of the Jurisdiction.

2. The registered office of the Filer is located at 77 King Street West, TD North Tower, 21st Floor, Toronto, Ontario.

3. The Filer is registered as an investment fund manager, portfolio manager and an exempt market dealer under the *Securities Act* (Ontario).

4. The manager of the Fund will be the Filer or an affiliate thereof.

5. The Fund is a separate class of shares of Purpose Fund Corp. and is divided into seven series which consists of exchange-traded shares (**ETF shares**), non-currency hedged exchange-traded shares (**Non-Currency Hedged ETF Shares** and together with the ETF shares, the **ETF Shares**) and Series A, Series F, Series I, Series D, Series XA and Series XF mutual fund shares (together, the **Mutual Fund Shares**).

6. The Filer is not in default of securities legislation in any of the Jurisdictions.

7. The Fund will be a mutual fund governed by the laws of Ontario and a reporting issuer under the laws of all of the Jurisdictions.

8. The Fund is a commodity pool and will be subject to and comply with the relevant provisions of National Instrument 81-104 – *Commodity Pools* (**NI 81-104**).

9. The Fund seeks to provide shareholders with long-term capital appreciation and a superior risk adjusted return relative to the broad U.S. equity markets. The Fund aims to provide returns in excess of the broad U.S. equity markets by investing in a portfolio of U.S. listed equities while maintaining a similar level of volatility as the broad U.S. equity markets. The Fund will employ leverage to increase its long portfolio exposure and to hedge the increased market risk associated with the leveraged portion of the portfolio. The Fund will implement its hedging strategy through the use of derivative instruments including by selling market index futures contracts. The Fund will borrow up to a maximum of 35% of its net assets, of which up to a maximum of 30% will be used for additional investment in its long portfolio, and up to a maximum of 5% will be used as margin in connection with the Fund's hedging strategy.

10. The Filer will use a multi-factor, fundamental rules-based portfolio selection strategy to select portfolio securities from a universe of North American equities. The selection strategy will emphasize factors that have shown to be effective at differentiating between strong and weak performing stocks including: fundamental change, valuation, growth and quality.

11. The use of leverage is fundamental to the Fund's investment strategies and integral to achieving the Fund's investment objective. Accordingly, the Fund's prospectus cover page will include warning language in bold regarding the use of leverage.

12. The Fund proposes to borrow up to a maximum of 35% of the Fund's NAV. The Fund proposes to use up to a maximum of 30% of the Fund's net asset value from such borrowings to acquire additional portfolio investments. As a result, the Fund will hold a portfolio of securities with a value not exceeding 130% of the Fund's NAV.

13. In order to reduce the market risk associated with the leveraged portion of the portfolio, the Fund will hedge up to 30% of its market exposure such that the net market exposure of the Fund will generally be targeted at 100% of the NAV of the Fund. The Fund's investment strategy is intended to enable the Fund to take advantage of the expected value (or alpha) associated with the Fund's individual portfolio investments while maintaining a level of risk similar to the overall market. As a result, over time, it is expected that for every $100 invested, the portfolio will be constructed as $130 in long equity security positions and $30 in short market index risk, resulting in a portfolio that generally has 100% net equity market exposure.

14. In order to implement its hedging strategy, the Fund will use derivative instruments in compliance with NI 81-102 and NI 81-104 including by selling market index futures contracts. The Fund will need to post margin to enter into such futures contracts and, in order to remain invested in portfolio securities in an amount equal to 130% of the Fund's NAV, the Fund will need to borrow an additional amount, not to exceed 5% of the Fund's NAV, to use as margin for such futures contracts.

15. The Filer has applied to list the ETF Shares of the Fund on the TSX. The Filer will not file a final prospectus for the Fund in respect of the ETF Shares until the TSX or another recognized stock exchange has conditionally approved the listing of ETF Shares.

16. Mutual Fund Shares will not be listed and may be subscribed for or purchased directly from the Fund through qualified financial advisors and brokers

registered to sell securities of mutual funds which are subject to NI 81-104 in accordance with the requirements of Part 4 of that Instrument.

17. ETF Shares may be subscribed for or purchased directly from the Fund by Dealers or Designated Brokers and orders may be placed for ETF Shares in the Prescribed Number of ETF Shares or an integral multiple thereof.

18. The Fund will appoint one or more Designated Brokers to perform certain functions, which include standing in the market with a bid and ask price for ETF Shares for the purpose of maintaining liquidity for ETF Shares.

19. Each Dealer or Designated Broker that subscribes for ETF Shares will deliver, in respect of each Prescribed Number of ETF Shares to be issued, a Basket or cash in an amount sufficient so that the value of the Basket or cash delivered is equal to the NAV of the ETF Shares next determined following the receipt of the subscription order.

20. Neither the Dealers nor the Designated Brokers will receive any fees or commissions in connection with the issuance of ETF Shares to them. On the issuance of ETF Shares, an administrative fee may be charged to a Dealer or Designated Broker to offset the expenses (including any applicable TSX additional listing fees) incurred in issuing the ETF Shares.

21. Except as described above, ETF Shares may not generally be purchased directly from the Fund. Investors will generally be expected to purchase ETF Shares through the facilities of the applicable Exchange. ETF Shares may be issued directly to Shareholders upon a reinvestment of dividends or switch from the ETF Shares of one exchange-traded fund of Purpose Fund Corp. to the ETF Shares of another exchanged-traded fund of Purpose Fund Corp.

22. Shareholders that wish to dispose of their ETF Shares will generally be able to do so by selling their ETF Shares on the applicable Exchange, through a registered dealer, subject only to customary brokerage commissions. A Shareholder that holds a Prescribed Number of ETF Shares of the Fund or an integral multiple thereof will be able to exchange such ETF Shares with the Fund for cash and/or Baskets. A Shareholder will also be able to redeem ETF Shares for cash at a redemption price equal to 95% of the closing price of the ETF Shares on the applicable Exchange on the date of redemption.

23. The Mutual Fund Shares of the Fund will only be purchased by investors through registered brokers and dealers registered to sell securities of mutual funds which are subject to NI 81-104 in accordance with the requirements of Part 4 of that Instrument.

24. The ETF Shares will be redeemable at the option of the holder at any time.

25. As the Fund will be listed on the TSX, holders of ETF Shares will have the opportunity to trade their shares on the TSX and as such do not have to rely on the redemption features of the Fund to provide liquidity for their shares.

26. The Fund will comply with certain restrictions and practices contained in Canadian securities legislation, including NI 81-102 and will be managed in accordance with these restrictions, except as otherwise permitted by NI 81-104, subject to receipt of any exemptions therefrom obtained by the Fund.

IV. 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 Requested Relief is granted, provided that:

(a) the Fund is a commodity pool, as defined by NI 81-104, and complies with NI 81-102, except as otherwise permitted by NI 81-104, subject to receipt of any exemptions therefrom obtained by the Fund;

(b) the Fund does not borrow an amount exceeding 35% of the Fund's NAV on a daily mark-to-market basis, of which up to a maximum of 30% of the Fund's NAV will be used to invest in portfolio securities and up to a maximum of 5% of the Fund's NAV will be used as margin in connection with its hedging activities to offset the increased market risk associated with the leveraged portion of the portfolio such that the net market exposure of the Fund will generally be targeted at 100% of the NAV of the Fund;

(c) in the event that the borrowed amount exceeds 35% of the Fund's NAV, the Fund's portfolio will be rebalanced within 3 business days to bring it back within the borrowing limits;

(d) the Fund borrows from a "Canadian financial institution", as defined by National Instrument 45-106 – *Prospectus and Registration Exemptions*, to implement the Requested Relief;

(e) the Fund's use of leverage complies with its investment objectives including

employing leverage to increase its long portfolio exposure and to hedge the increased market risk associated with the leveraged portion of the portfolio;

(f) the Fund maintains appropriate internal controls regarding its use of leverage, including written policies and procedures, risk management controls, and proper books and records; and

(g) in addition to any disclosure required by NI 81-104, the Fund includes in its long form prospectus (a) textbox disclosure regarding the Fund's use of leverage and this decision on the cover page, in accordance with paragraph 11 above (b) disclosure regarding this decision under the heading "Exemptions and Approvals" and (c) a risk factor regarding the use of leverage.

"Raymond Chan"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

2.1.2 8913404 Canada Inc. – s. 1(10)(a)(ii)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

August 1, 2014

8913404 CANADA INC.
1000 de la Gauchetière Street West
Suite 900
Montreal (Québec) H3B 5H4

Re: 8913404 CANADA INC. (the Applicant) – application for a decision under the securities legislation of Québec, Alberta and Ontario (the "Jurisdictions") that the Applicant is not a reporting issuer

Dear Sirs/Ms.:

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

"Martin Latulippe"
Director, Continuous Disclosure
Autorité des marchés financiers

2.1.3 Agilent Technologies, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirements to allow U.S. parent company to spin off shares of its U.S. subsidiary to investors – distributions not covered by legislative exemptions – U.S. parent company is a public company in the U.S. but is not a reporting issuer in Canada – U.S. company has a *de minimis* presence in Canada – following the spin off, U.S. subsidiary will become an independent public company in the I.S. and will not be a reporting issuer in Canada – no investment decision required from Canadian shareholders in order to receive distributions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 53.

July 29, 2014

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
AGILENT TECHNOLOGIES, INC.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") for an exemption (the "**Exemption Sought**") from the prospectus requirements contained in the Legislation in connection with the distribution (the "**Spin-Off**") by the Filer of the shares of common stock of Keysight Technologies, Inc. ("**Keysight**"), a direct wholly-owned subsidiary of the Filer, by way of dividend *in specie* to holders ("**Filer Shareholders**") of shares of common stock of the Filer ("**Filer Shares**") resident in Canada ("**Filer Canadian Shareholders**").

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

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

(b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* ("**MI 11-102**") is intended to be relied upon in 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 a corporation incorporated in Delaware with principal executive offices in Santa Clara, California, U.S.A.. The Filer is a measurement company providing core bio-analytical and electronic measurement solutions to the life sciences, diagnostics and genomics, chemical analysis, communications and electronics industries.

2. The Filer is not a reporting issuer under the securities laws of any province or territory of Canada and, currently, has no intention of becoming a reporting issuer under the securities laws of any province or territory of Canada.

3. The authorized capital of the Filer consists of 2 billion Filer Shares and 125 million shares of preferred stock. As at April 30, 2014, 333,260,909.8 Filer Shares were issued and outstanding and no shares of preferred stock were issued and outstanding.

4. Filer Shares are listed on the New York Stock Exchange (the "**NYSE**") and trade under the symbol "A". Filer Shares are not listed on any Canadian stock exchange and, currently, the Filer has no intention of listing its shares on any Canadian stock exchange.

5. The Filer is subject to the 1934 Act and the rules, regulations and orders promulgated thereunder.

6. Based on a "Geographic Breakdown Snapshot" of registered holders provided by Computershare Investor Services (the Filer's transfer agent) obtained by the Filer, as of June 5, 2014, there were 228 registered Filer Canadian Shareholders holding approximately 24,428 Filer Shares, representing approximately 9.43% of the registered shareholders of the Filer worldwide and holdings of approximately 0.0073% of the outstanding Filer Shares as of such date. The Filer does not expect these numbers to have materially changed since that date.

7. Based on a "Geographic Survey" of beneficial holders provided by Georgeson, Inc. obtained by the Filer, as of January 21, 2014, there were 68 beneficial Filer Canadian Shareholders holding approximately 3,177,568 Filer Shares, representing approximately 0.55% of the beneficial holders of Filer Shares worldwide and holdings of approximately 0.95% of the outstanding Filer Shares as of April 30, 2014. The Filer does not expect these numbers to have materially changed since those dates.

8. Based on the information above, the number of registered and beneficial Filer Canadian Shareholders and the proportion of Filer Shares held by such shareholders is *de minimis*.

9. The Filer is proposing to spin off its electronic measurement products business into a newly formed independent company, Keysight, through a series of transactions. These transactions are expected to result in the Spin-Off by the Filer, *pro rata* to its shareholders of all of the shares in the common stock of Keysight (the "*Keysight Shares*"), which will be 100% of the Keysight Shares outstanding immediately prior to such distribution.

10. Keysight is a Delaware corporation with principal executive offices in Santa Rosa, California. It is currently a wholly-owned subsidiary of the Filer that, at the time of the Spin-Off, will hold the Filer's electronic measurement business.

11. As of the date hereof, all of the issued and outstanding Keysight Shares are held by the Filer, and no other stock of Keysight are issued and outstanding.

12. Fractional shares of Keysight Shares will not be distributed in connection with the Spin-Off. A distribution agent will aggregate the amount of fractional shares that would otherwise have been distributed into whole shares of Keysight and will sell such shares into the public market at then prevailing market prices and distribute the cash proceeds in U.S. Dollars (net of any applicable transfer taxes and the costs and expenses of such sale and distribution). The distribution agent will distribute such net proceeds *pro rata* to each Filer Shareholder who would otherwise have been entitled to receive a fractional share of Keysight.

13. Filer Shareholders will not be required to pay for the Keysight Shares, or to surrender or exchange Filer Shares or take any other action to be entitled to receive their Keysight Shares. The Spin-Off will occur automatically and without any investment decision on the part of Filer Shareholders.

14. Following the Spin-Off, Keysight will cease to be a subsidiary of the Filer.

15. Keysight will apply to have the Keysight Shares listed on the NYSE before the Spin-off.

16. After the completion of the Spin-off, the Filer will continue to be listed and traded on the NYSE.

17. Keysight is not a reporting issuer in any province or territory in Canada nor are its securities listed on any stock exchange in Canada. To the knowledge of the Filer, Keysight has no intention to become a reporting issuer in any province or territory in Canada or to list its securities on any stock exchange in Canada after the completion of the Spin-Off.

18. The Spin-Off will be effected under the laws of the State of Delaware.

19. Because the Spin-Off will be effected by way of a dividend of Keysight Shares to Filer Shareholders, no shareholder approval of the proposed transaction is required (or being sought) under Delaware law.

20. In connection with the Spin-Off, Keysight filed with the SEC a registration statement on Form 10 under the 1933 Act on March 5, 2014, detailing the proposed Spin-Off and subsequently filed amendments to the registration statement on April 18, 2014 and May 23, 2014 (as subsequently amended, restated and supplemented, the "**Registration Statement**").

21. After the SEC has completed its review of the Registration Statement, Filer Shareholders will receive a copy of an information statement (the "**Information Statement**") forming part of the Registration Statement. All materials relating to the Spin-Off sent by or on behalf of the Filer and Keysight in the United States (including the Information Statement) will be sent concurrently to Filer Canadian Shareholders.

22. The Information Statement will contain prospectus level disclosure about Keysight.

23. Filer Canadian Shareholders who receive Keysight Shares as a dividend pursuant to the Spin-Off will have the benefit of the same rights and remedies in respect of the disclosure documentation received in connection with the Spin-Off that are available to Filer Shareholders resident in the United States.

24. Following the completion of the Spin-Off, Keysight will send concurrently to Keysight Shareholders resident in Canada the same disclosure materials required to be sent under applicable U.S. laws to Keysight Shareholders resident in the United States.

25. There will be no active trading market for the Keysight Shares in Canada following the Spin-Off and none is expected to develop. Consequently, it is expected that any resale of Keysight Shares distributed in connection with the Spin-Off will occur through the facilities of the NYSE.

26. The Spin-Off to Filer Canadian Shareholders would be exempt from the Prospectus Requirements pursuant to subsection 2.31(2) of NI 45-106 but for the fact that Keysight is not a reporting issuer under the securities legislation of any jurisdiction in Canada.

27. Neither the Filer nor Keysight is in default of any securities legislation in any jurisdiction of Canada.

Decision

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

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

"James D. Carnwath"
Commissioner
Ontario Securities Commission

"Sarah B. Kavanagh"
Commissioner
Ontario Securities Commission

2.1.4 Northwest & Ethical Investments L.P. and the Corporate Classes

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to permit corporate class funds to invest in underlying fund of funds – Relief needed to facilitate creation of corporate class funds that seek to replicate performance of existing mutual fund trusts that invest in other funds – Each corporate class to invest in one trust fund – Investment objectives of corporate class will state the name of trust fund that it invests in – fund of fund investing by corporate classes and trust funds will otherwise comply with section 2.5 of National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(b), 19.1.

July 29, 2014

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
NORTHWEST & ETHICAL INVESTMENTS L.P.
(the Filer)

AND

IN THE MATTER OF
THE CORPORATE CLASSES (as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Corporate Classes for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Corporate Classes from paragraph 2.5(2)(b) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to permit each Corporate Class to purchase or hold securities of a Trust Fund (as defined below), which Trust Fund will hold more than 10% of its net asset value in, amongst other things, securities of one or more Underlying Funds (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 this application; and

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

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless otherwise defined. The following additional terms shall have the following meanings:

Corporate Classes means the Existing Corporate Classes and any other future mutual funds managed by the Filer that will each be a class of a mutual fund corporation.

NI 81-101 means National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

Existing Corporate Classes means each of NEI Northwest Growth and Income Corporate Class, NEI Select Balanced Corporate Class Portfolio, NEI Select Conservative Corporate Class Portfolio, NEI Select Global Maximum Growth Corporate Class Portfolio, NEI Select Growth Corporate Class Portfolio.

Trust Funds means the existing and future mutual fund trusts managed by the Filer in which a Corporate Class may invest pursuant to the Exemption Sought.

Underlying Fund means each mutual fund in which a Trust Fund may invest from time to time in accordance with NI 81-102.

Representations

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

1. The Filer is a limited partnership established by the filing of a Declaration of Limited Partnership under the *Limited Partnerships Act* (Ontario) on September 28, 2007 with its head office in Toronto, Ontario.

2. The Filer is registered as an investment fund manager in British Columbia, Newfoundland and Labrador, Ontario and Quebec.

3. The Filer acts, or will act, as manager of each Corporate Class and each Trust Fund.

4. The Underlying Funds may be managed by the Filer, its affiliates and/or other investment fund managers unrelated to the Filer.

5. None of the Filer, the Existing Corporate Classes or the existing Trust Funds are in default of securities legislation in any of the Jurisdictions.

6. Each Existing Corporate Class is a class of a mutual fund corporation established under the laws of the Province of Ontario and each future Corporate Class will be a class of a mutual fund corporation established under the laws of one of the Jurisdictions or of Canada. Each Existing Corporate Class is a reporting issuer under the laws of each Jurisdiction subject to NI 81-102, and each future Corporate Class will be a reporting issuer under the laws of one or more Jurisdictions subject to NI 81-102, subject to any relief therefrom granted by applicable securities regulatory authorities.

7. Each Trust Fund is an open-end mutual fund trust established under the laws of the Province of Ontario, or will be an open-end mutual fund trust established under the laws of one of the Jurisdictions, and is a reporting issuer under the laws of each Jurisdiction subject to NI 81-102, or will be a reporting issuer under the laws of one or more Jurisdictions subject to NI 81-102, subject to any relief therefrom granted by applicable securities regulatory authorities.

8. The securities of each Corporate Class are distributed, or will be qualified for distribution, pursuant to a simplified prospectus, annual information form and Fund Facts that is, or will be, prepared and filed in accordance with NI 81-101. The securities of each Existing Corporate Class are distributed pursuant to a simplified prospectus, annual information form and Fund Facts dated June 26, 2014 (the **Final Prospectus**).

9. The securities of each Trust Fund have been offered, are offered, or will be offered under a simplified prospectus, annual information form and Fund Facts in accordance with NI 81-101. The securities of each existing Trust Fund are distributed under the Final Prospectus.

10. Each Corporate Class is intended to provide investors a version of a Trust Fund but with the flexibility to switch to another mutual fund that is a class of the same mutual fund corporation on a tax-deferred basis.

11. Each Trust Fund is or will be a fund-of-funds that invests or will invest in one or more Underlying Funds and may also invest directly in cash, bonds or other debt securities, fixed income securities, other income-producing securities and/or equity securities.

12. An investment by a Trust Fund in securities of the Underlying Funds is and will be made in accordance with the provisions of section 2.5 of NI 81-102 (or pursuant to an exemption therefrom), including the prohibition that no Underlying Fund will hold more than 10% of its net asset value in securities of other mutual funds unless otherwise permitted by NI 81-102.

13. Currently, each Existing Corporate Class is a fund-of-funds that invests in a portfolio substantially similar to the portfolio of the applicable Trust Fund, which includes one or more Underlying Funds, and may also invest directly in cash, bonds or other debt securities, fixed income securities, other income-producing securities and/or equity securities.

14. Through the Exemption Sought, each Existing Corporate Class seeks, and each future Corporate Class will seek, to achieve its investment objective by investing all or substantially all of its assets in units of the applicable Trust Fund. It may also invest directly in securities of the Underlying Funds and/or mutual funds similar to the Underlying Funds, based on similar weighting to that used by the Trust Fund.

15. The Filer has confirmed that the underlying portfolio exposure of the Existing Corporate Classes following the implementation of the Exemption Sought will be substantially similar to the current portfolio exposure of the Existing Corporate Classes.

16. The Filer has determined that, generally, it would be more efficient and less costly for each Corporate Class if the Corporate Class achieves its investment objectives by investing all, or substantially all, of its assets in units of the applicable Trust Fund, instead of investing directly in the same securities and in the same proportions in which the Trust Fund invests. However, the Filer has determined that under certain circumstances, it may be beneficial for a Corporate Class to invest directly in the applicable Underlying Funds and/or other mutual funds similar to those Underlying Funds based on a similar weighting to that of the Trust Fund.

17. An investment by a Corporate Class in units of its applicable Trust Fund will be made in accordance with the provisions of section 2.5 of NI 81-102, except for the requirements in section 2.5(2)(b) of NI 81-102, as a Corporate Class' investment in units of its applicable Trust Fund would result in a multi-tier fund structure with respect to the Trust Fund's investment in one or more Underlying Funds.

18. The simplified prospectus of each Corporate Class will disclose (i) in the investment objective, the name of the applicable Trust Fund that the Corporate Class will invest in and (ii) in the investment strategies, the investment strategies of the Trust Fund. Accordingly, the simplified prospectus of each Corporate Class will disclose that the accountability for portfolio management is at the level of the Trust Fund with respect to the selection of Underlying Funds and any other securities.

19. The simplified prospectus of each Corporate Class and each Trust Fund discloses or will disclose that fees and expenses will not be duplicated as a result of investments in other mutual funds.

20. The Exemption Sought, which will result in a Corporate Class investing directly or indirectly in its Trust Fund, which in turn invests in one or more Underlying Funds, is akin to, and no more complex than, the three-tier structure currently permitted under section 2.5(4)(a) of NI 81-102.

21. Each Corporate Class will comply with the requirements under National Instrument 81-106 *Investment Fund Continuous Disclosure* relating to top 25 positions portfolio holdings disclosure in its management reports of fund performance and the requirements in Form 81-101F3 *Contents of Fund Facts Document* relating to top 10 positions portfolio holdings disclosure in its Fund Facts as if the Corporate Class were investing directly in the portfolio of the Trust Fund.

22. An investment by a Corporate Class in its applicable Trust Fund and by a Trust Fund in the applicable Underlying Funds represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Corporate Class and of the Trust Fund, respectively.

23. The Filer has determined that it would be in the best interests of the Corporate Classes and not prejudicial to the public interest to receive the Exemption Sought.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

(a) the proposed investment of each Corporate Class in a Trust Fund is otherwise made in compliance with all other requirements of section 2.5 of NI 81-102, and

(b) the investment objectives of each Corporate Class as stated in the simplified prospectus, states the name of the Trust Fund in which the Corporate Class invests.

"Vera Nunes"
Manager, Investment Funds and Structure Products
Ontario Securities Commission

2.1.5 Powder Mountain Inc. (formerly Passport Energy Ltd.) – s. 1(10)(a)(ii)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

Citation: Re Powder Mountain Inc., 2014 ABASC 291

August 5, 2014

Carscallen LLP
1500, 407 – 2nd Street SW
Calgary, AB T2P 2Y3

Attention: Aron Balakrishnan

Dear Sir:

Re: Powder Mountain Inc. (formerly Passport Energy Ltd.) (the Applicant) – Application for a decision under the securities legislation of Alberta and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, “securityholder” means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

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

"Denise Weeres"
Manager, Legal
Corporate Finance

2.1.6 Tangerine Investment Management Inc. (formerly known as ING Direct Asset Management Limited)

Headnote

National Policy 11-203 Process for Exemption Relief Applications in Multiple Jurisdictions – relief from s. 4.1(1) of NI 81-102 for dealer-managed mutual funds to invest in distributions of debt securities for which dealer-manager acts as underwriter during distribution period or 60 day period following distribution, and s. 4.1(2) of NI 81-102, following the acquisition of the manager by another organization, to permit mutual funds to purchase securities of related entities on primary and secondary markets, subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 4.1(2), 19.1.

July 31, 2014

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
TANGERINE INVESTMENT MANAGEMENT INC.
(formerly known as ING DIRECT ASSET MANAGEMENT LIMITED)
(the "Filer")

AND

IN THE MATTER OF
THE FUNDS (as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the existing and future mutual funds of which the Filer is the investment fund manager or the portfolio adviser or both and to which National Instrument 81-102 – *Mutual Funds* ("**NI 81-102**") applies (each, a "**Fund**" and, collectively, the "**Funds**"), for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") for relief (the "**Requested Relief**"):

(a) under section 19.1 of NI 81-102 from section 4.1(1) of NI 81-102 (the "**Investment Prohibition**") to permit the investment by the Funds in debt securities of an issuer during the period of the distribution (the "**Distribution**") or during the period of 60 days after the Distribution (the "**60-Day Period**"), notwithstanding the involvement of one of the Filer's associates or affiliates as an underwriter in the Distribution and

notwithstanding that the debt securities do not have a "designated rating" by a "designated rating organization" as contemplated by section 4.1(4.1) of NI 81-102; and

(b) under section 19.1 of NI 81-102 from section 4.1(2) of NI 81-102 (the "**Requested Section 4.1(2) Relief**") to permit the investment by the Funds in a class of securities of an issuer (a "**Related Person**") of which a partner, director, officer or employee of the dealer manager of the mutual fund, or a partner, director, officer or employee of an affiliate or associate of the dealer manager, is a partner, director or officer, notwithstanding that the Funds are dealer managed mutual funds and the partner, director, officer or employee

1) may participate in the formulation of investment decisions made on behalf of the dealer managed mutual fund;

2) may have access before implementation to information concerning investment decisions made on behalf of the dealer managed mutual fund; and

3) may influence, other than through research, statistical and other reports generally available to clients, the investment decisions made on behalf of the dealer managed mutual fund;

(the foregoing individuals being referred to as "**Access Persons**").

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

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

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

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, NI 81-102 and National Instrument 81-107 *Independent Review Committee for Investment Funds* ("**NI 81-107**") 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 in respect of the Filer and the Funds:

The Filer

1. The Filer is a corporation existing under the laws of Canada, and is registered as an adviser in the category of portfolio manager in the Jurisdiction. The Filer is also an investment fund manager within the meaning of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**") in the Jurisdiction, Québec and Newfoundland and Labrador.

2. On November 15, 2012, The Bank of Nova Scotia ("**Scotiabank**") completed the acquisition of ING Bank of Canada, the parent company of the Filer (the "**Change of Control Transaction**").

3. The Filer is or will be the manager or portfolio adviser of each of the Funds.

4. Neither of the Filer nor any of the Funds is in default of securities legislation in the Jurisdiction or in any of the Non-Principal Jurisdictions.

5. The Filer is currently an affiliate of Scotia Capital Inc. and the Filer, or an affiliate of the Filer, may become an affiliate or associate of additional dealers in the future (each of which is a "**Related Dealer**", and collectively the "**Related Dealers**"), any of which may act as an underwriter in a Distribution.

6. Scotiabank is a principal shareholder of a dealer. As a result, the Filer is or will be a "dealer manager" within the meaning of NI 81-102 ("**Dealer Manager**") in respect of the Funds. An affiliate of the Filer is also, or may also be, a Dealer Manager in respect of the Funds. Accordingly, each of the Funds is or will be a "dealer managed mutual fund" within the meaning of NI 81-102.

The Funds

7. Each of the Funds is, or will be, a mutual fund established under the laws of Ontario or one of the other Jurisdictions, and none of the Funds is or will be a "money market fund" as defined in NI 81-102.

8. The securities of each of the Funds are, or will be, qualified for distribution pursuant to a simplified prospectus, annual information form and a fund facts document that has been, or will be, prepared and filed in accordance with the securities legislation of each of the Jurisdictions. Each of the Funds is or will be a "dealer managed mutual fund" that is or will be a reporting issuer in one or more of the Jurisdiction and the Non-Principal Jurisdictions.

9. The investment strategies of each of the Funds permit, or will permit, it to invest in the securities purchased.

10. Each of the Funds has or will have an IRC appointed under NI 81-107. The IRC complies, or will comply, with the standard of care set out in section 3.9 of NI 81-107.

11. The Filer may wish to invest the assets of the Funds in exchange-traded and non-exchange-traded securities of Scotiabank or other Related Persons.

12. Section 6.2 of NI 81-107 provides an exemption from the mutual fund conflict of interest investment restrictions for purchases of Related Person securities if the purchase is made on an exchange. The Funds are permitted to invest in exchange-traded securities of Related Persons pursuant to section 6.2 of NI 81-107. However, section 6.2 of NI 81-107 does not provide an exemption from section 4.1(2) of NI 81-102 and it does not provide an exemption for purchases of non-exchange-traded debt securities.

13. A director, officer, or employee of the Filer who is an Access Person may be a director or officer of Scotiabank or another affiliate and a director, officer or employee of Scotiabank or another affiliate who is an Access Person may be a director or officer of other issuers, which will result in the Filer and such other issuers being Related Persons.

14. One or more directors of Scotiabank may be a director or officer of other related entities. The directors and officers of such other issuers may be Access Persons as a result of the structure of the investment management activities of the Filer, Scotiabank and its related entities, which will result in such other issuers being Related Persons.

15. Related Persons of the Filer are issuers of both exchange-traded and non-exchange-traded securities.

16. Non-exchange-traded securities that are debt securities issued by Related Persons, in addition to securities that are listed and traded on an exchange, may be appropriate investments for the Funds.

17. Directors, officers and employees of the Filer or of an affiliate or associate of the Filer may be directors, officers or employees of a Related Person who do not meet the exceptions in section 4.1(2) of NI 81-102 such that the Requested Section 4.1(2) Relief is required by the Filer to permit the Funds to invest in securities of a Related Person.

18. he Filer is seeking the Requested Section 4.1(2) Relief to permit the Funds to purchase and hold non-exchange traded securities that are debt securities, other than asset backed commercial paper securities, with a term to maturity of 365 days or more, issued by a Related Person in a primary distribution or treasury offering ("**Primary Offering**") or in the secondary market.

19. The Funds require Requested Section 4.1(2) Relief because:

    a. There is currently and has been for several years a very limited supply of highly rated corporate debt;

    b. Diversification is reduced to the extent that a Fund is limited with respect to investment opportunities; and

    c. To the extent that a Fund is trying to track or outperform a benchmark it is important for the Fund to be able to purchase any securities included in the benchmark. Debt securities of Related Persons of the Filer are included in most of the Canadian debt indices.

20. Each non-exchange-traded security purchased by a Fund pursuant to the Requested Section 4.1(2) Relief will be a debt security issued by a Related Person that has been given, and continues to have at the time of purchase, a "designated rating" by a "designated rating organization" as such terms are defined in NI 81-102.

21. If a Fund's purchase of non-exchange-traded securities issued by Related Persons involves an inter-fund trade with another fund to which NI 81-107 applies, the provisions of section 6.1(2) of NI 81-107 will apply to such transaction.

22. The Filer has determined that it would be in the best interests of the Funds to receive the Requested Section 4.1(2) Relief.

23. As portfolio adviser to a Fund, the Filer, or any affiliate of the Filer that acts as the portfolio adviser to a Fund and is a Dealer Manager, may wish to cause a Fund to invest in debt securities that do not have a "designated rating" by a "designated rating organization" as such terms are defined in National Instrument.44-101 – *Short Form Prospectus Distributions* ("**NI 44-101**"), and where a Related Dealer is underwriting the offering of such debt securities.

24. The Funds require the Requested Relief from the Investment Prohibition because:

    a. there is a limited supply of debt securities issued by issuers other than the federal or a provincial government ("**Non-Government Debt Securities**");

b. frequently, the only source of new issues of Non-Government Debt Securities will be offerings that are, in whole or in part, underwritten by a Related Dealer; and

c. Non-Government Debt Securities that the Filers wish to purchase for the Funds may not have a "designated rating" by a "designated rating organization".

25. The Filer considers that a Fund managed or advised by it may be prejudiced if it cannot purchase, during a Distribution or in the 60-Day Period, Non-Government Debt Securities that are consistent with the Fund's investment objective. Forgoing participation in these investment opportunities may be a significant opportunity cost for the relevant Funds, as they would be denied timely access to these securities purely as a result of the coincidental participation of a Related Dealer in the transaction and the lack of a designated rating of the securities distributed.

26. The Filer operates independently from the Related Dealers with regard to their respective investment decisions. Information and influence barriers ensure that a Fund has no involvement in a Related Dealer's function as underwriter. Moreover, transactions executed in reliance on the Requested Relief represent the business judgment of the applicable portfolio adviser uninfluenced by considerations other than the best interests of the applicable Fund. This principle is reflected in the policies and procedures that have been implemented and approved by the IRC for dealing with related parties.

27. The details of a Distribution and a Related Dealer's involvement as an underwriter in such Distribution will not be known to a Filer sufficiently long enough in advance to be practical to make an application for relief on a case-by-case basis. Furthermore, a case-by-case approach is not economical or otherwise efficient for the Filer or the Funds.

28. Where any proposed investment is also subject to a restriction arising from the applicability of section 111 of the *Securities Act* (Ontario), or paragraph 13.5(2)(b) of NI 31-103, the Filer and the Funds shall rely on relief granted to 1832 Asset Management L.P. and its affiliates dated October 29, 2013 in order to proceed with the investment, or shall not proceed with making the investment if that proposed investment would not meet all the requirements under the orders referenced in this section.

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 Requested Relief is granted on the following conditions:

A. In respect of the relief from the Investment Prohibition:

i) at the time of each purchase, the purchase is consistent with, or is necessary to meet, the investment objective of the Fund and represents the business judgment of the portfolio adviser of the Fund uninfluenced by considerations other than the best interests of the Fund or in fact is in the best interests of the Fund;

ii) the manager of the Fund complies with section 5.1 of NI 81-107 and the manager and IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the investment in the securities;

iii) at the time of the purchase, the IRC of the Fund has approved the transaction in accordance with section 5.2(2) of NI 81-107;

iv) if the Non-Government Debt Securities are acquired during the Distribution,

a. at least one underwriter acting as underwriter in the Distribution is not a Related Dealer,

b. at least one purchaser who is independent and arm's length to the Fund(s) and the Related Dealers must purchase at least 5% of the securities distributed under the Distribution,

c. the price paid for the securities by a Fund in the Distribution shall be no higher than the lowest price paid by any of the arm's length purchasers who participate in the Distribution, and

d. a Fund and any related Funds for which the Filer or its affiliate or associate acts as manager and/or portfolio adviser can collectively acquire no more than 20% of the securities distributed under the Distribution in which a Related Dealer acts as underwriter;

v) if the Non-Government Debt Securities are acquired during the 60-Day Period,

a. the ask price of the securities is readily available as provided in Commentary 7 to section 6.1 of NI 81-107,

b. the price paid for the securities by a Fund is not higher than the available ask price of the security, and

c. the purchase is subject to market integrity requirements as defined in NI 81-107;

vi) the Non-Government Debt Securities acquired by the Funds pursuant to the Requested Relief cannot be asset-backed commercial paper; and

vii) no later than the time a Fund files its annual financial statements, the manager of the Fund will file the particulars of each investment made by the Fund pursuant to the Requested Relief during its most recently completed financial year.

B. In respect of the Requested Section 4.1(2) Relief is granted to permit purchases of Related Person securities, provided that:

i) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Fund;

ii) the IRC of the Fund has approved the transaction in accordance with section 5.2(2) of NI 81-107;

iii) the Filer complies with section 5.1 of NI 81-107 and the Filer and the IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;

iv) if the purchases are made in the secondary market:

a. if the security is an exchange-traded security, the purchase is made on an exchange on which the securities of the issuer are listed and traded;

b. if the security is not an exchange-traded security,

I. the price payable for the security is not more than the ask price of the security;

II. the ask price of the security is determined as follows:

a. if the purchase occurs on a marketplace, the price payable is determined in accordance with the requirements of that marketplace; or

b. if the purchase does not occur on a marketplace,

i. the Fund may pay the price for the security at which an independent, arm's length seller is willing to sell the security, or

ii. if the Fund does not purchase the security from an independent, arm's length seller, consistent with Commentary 7 of section 6.1 of NI 81-107, the Fund must pay the price quoted publicly by an independent marketplace or obtain, immediately before the purchase, at least one quote from an independent, arm's-length purchaser or seller and not pay more than that quote;

c. the transaction complies with any applicable "market integrity requirements" as defined in NI 81-107;

v) if the purchases are made in a Primary Offering:

a. the size of the Primary Offering is at least $100 million;

b. at least two purchasers who are independent, arm's-length purchasers, which may include "independent underwriters" within the meaning of National Instrument 33-105, Underwriting Conflicts, collectively purchase at least 20% of the Primary Offering;

c. no Fund shall participate in the Primary Offering if following its purchase the Fund would have more than 5% of its net assets invested in non-exchange traded debt securities of the Related Person;

d. no Fund shall participate in the Primary Offering if following its purchase the Fund together with related Funds will hold more than 20% of the securities issued in the Primary Offering;

e. the price paid for the securities by a Fund in the Primary Offering shall be no higher than the lowest price paid by any of the arm's length purchasers who participate in the Primary Offering;

vi) no later than the time the Fund files its annual financial statements, the Filer files with the securities regulatory authority or regulator the particulars of any such investments; and

vii) the reporting obligation in section 4.5 of NI 81-107 applies to the Requested Section 4.1(2) Relief granted in this decision and the IRC of the Fund complies with section 4.5 of NI 81-107 in connection with any instance that it becomes aware that the Filer did not comply with any of the conditions of this decision.

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

2.1.7 Fidelity Investments Canada ULC and Fidelity Floating Rate High Income Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual fund for extension of lapse date of prospectus for 34 days – Lapse date extended to permit updating of the disclosure across the fund family – Extension of lapse date will not affect the currency or accuracy of the information contained in the prospectus – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

July 31, 2014

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
FIDELITY INVESTMENTS CANADA ULC
(the Manager)

AND

IN THE MATTER OF
FIDELITY FLOATING RATE HIGH INCOME FUND
(the Fund and, together with the Manager, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption that the time limits pertaining to filing the renewal prospectus of the Fund be extended as if the lapse date of the simplified prospectus and annual information form dated September 26, 2013 of the Fund (the **Renewal Prospectus**) is October 30, 2014 (the **Requested Relief**).

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

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

(b) the 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 all of the provinces and territories of Canada other than the Jurisdiction (collectively, with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Fund is a reporting issuer (or the equivalent) as defined in the securities legislation of each of the Jurisdictions.

2. The Filers are not in default of securities legislation in any of the Jurisdictions.

3. The Fund currently distributes its securities in the Jurisdictions pursuant to a simplified prospectus dated September 26, 2013 (the **Prospectus**).

4. Amended fund facts that incorporate the requirements of Form 81-101F3 that came into effect on January 13, 2014 were filed on behalf of the Fund on April 28, 2014 (the **Fund Facts**).

5. The lapse date of the Prospectus under the Legislation is September 26, 2014. Accordingly, under the Legislation, the distribution of securities of the Fund would have to cease on September 26, 2014 unless: (i) the Fund files a pro-forma simplified prospectus at least 30 days prior to September 26, 2014; (ii) the final simplified prospectus is filed no later than 10 days after September 26, 2014; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of September 26, 2014.

6. The Manager is registered as a portfolio manager and mutual fund dealer in each of the provinces and territories of Canada and is registered under the *Commodity Futures Act* (Ontario) in the category of commodity trading manager. The Manager is also registered as an investment fund manager in the provinces of Ontario, Newfoundland and Labrador, and Quebec.

7. The Manager is the manager of the Fund and approximately 96 mutual funds (the **Affiliated Funds**) that currently distribute their securities to the public under a simplified prospectus and annual information form (filed on SEDAR under Project No. 2112406), which has October 30, 2014 as its lapse date under the Legislation.

8. The Affiliated Funds share many common operational and administrative features with the Fund and combining them in the same prospectus booklet will allow investors to more easily compare the features of the Affiliated Funds and the Fund.

9. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to prepare the renewal prospectus, annual information form and fund facts for the Affiliated Funds, and unreasonable to incur the costs and expenses associated therewith, so that the renewal prospectus for the Affiliated Funds can be filed earlier with the renewal prospectus for the Fund.

10. The Manager may make minor changes to the features of the Affiliated Funds as part of the process of renewing the Affiliated Funds' prospectus in October 2014. The ability to file the Renewal Prospectus with those of the Affiliated Funds will ensure that the Manager can make the operational and administrative features of the Fund and the Affiliated Funds consistent with each other.

11. There have been no material changes in the affairs of the Fund since the date of the Prospectus. Accordingly, the Prospectus represents current information regarding the Fund. In addition, the Fund Facts filed on April 28, 2014 provides even more current information to investors regarding the Fund.

12. After June 13, 2014, new investors will receive delivery of the Fund Facts. The Prospectus will still be available upon request.

13. The Requested Relief will not affect the accuracy of the information in the Prospectus or the Fund Facts and therefore will not be prejudicial to the public interest.

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 Requested Relief is granted.

"Vera Nunes"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

2.1.8 Ranaz Corporation – s. 1(10)(a)(ii)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

August 6, 2014

Ranaz Corporation
500 Guindon Street, Suite 111
Saint-Eustache (Québec) J7R 5B4

Re: Ranaz Corporation (the Applicant) – application for a decision under the securities legislation of Québec, Ontario and Alberta (the "Jurisdictions") that the Applicant is not a reporting issuer

Dear Sirs/Ms.:

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

"Martin Latulippe"
Director, Continuous Disclosure
Autorité des marchés financiers

2.1.9 Heritage Oil Plc – 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

Citation: Re Heritage Oil Plc, 2014 ABASC 300

August 7, 2014

McCarthy Tétrault LLP
Suite 4000
421 – 7th Avenue SW
Calgary, AB T2P 4K9

Attention: Matthew E. Lawson

Dear Sir:

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

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the

jurisdictions of Canada in which it is currently a reporting issuer; and

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

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

"Denise Weeres"
Manager, Legal
Corporate Finance

2.1.10 Interactive Brokers Canada Inc.

Headnote

Application by Canadian dealer (the Applicant) for relief from the prospectus requirement in connection with the distribution of over-the-counter (OTC) foreign exchange contracts to investors resident in the Applicable Jurisdictions on the terms and conditions described in the decision which is subject to a four-year sunset clause – Applicant is registered as an investment dealer in all provinces and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Applicant seeking relief to permit Applicant to offer OTC foreign exchange contracts to investors in Applicable Jurisdictions on a similar basis as in Québec, including relief permitting the Applicant to distribute OTC foreign exchange contracts on the basis of providing to investors a clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options and the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted) – Relief granted subject to conditions.

Legislation Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53 74(1).
NI 45-106 Prospectus and Registration Exemptions, s. 2.3.
OSC Rule 91-502 Trades in Recognized Options.
OSC Rule 91-503 Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario.
Proposed OSC Rule 91-504 OTC Derivatives (not adopted).

August 8, 2014

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
INTERACTIVE BROKERS CANADA INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Interactive Brokers Canada Inc. (the **Filer**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of over-the-counter (**OTC**) foreign exchange contracts to permit investors resident in Canada to enter into OTC foreign exchange transactions with the Filer (referred to herein as **IB Forex transactions**) (the **Requested Relief**) subject to the terms and conditions below.

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

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

(b) the Filer has provided notice that section 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 of Canada, other than the provinces of Québec and Alberta, (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**).

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its principal office in Montréal, Quebec.

2. The Filer is a member of the Interactive Brokers Group (**Interactive Brokers**), a leading global electronic brokerage group. Interactive Brokers provides its customers with direct, high-speed access to trade in more than 80 equity and derivatives exchanges and a growing number of Electronic Communication Networks (**ECNs**). Interactive Brokers Group, Inc. is currently listed on NASDAQ under the symbol "IBKR".

3. The Filer is registered as a dealer in the category of investment dealer in all provinces, a futures commission merchant in Ontario and Manitoba and is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

4. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.

5. The Filer is, to the best of its knowledge, not in default of any requirements of securities legislation in Canada or IIROC Rules or IIROC Acceptable Practices (each as defined below).

6. The Filer currently offers IB Forex transactions (a) to "accredited investors" (as defined in National Instrument 45-106 *Prospectus and Registration Exemptions*) in the province of Alberta (NI 45-106), (b) to retail investors resident in Ontario pursuant to *In the Matter of Interactive Brokers Canada Inc.* dated August 20, 2010 (the **August 20, 2010 Order**) and (c) pursuant to a notice filed on July 27, 2011 under section 4.7 of MI 11-102 *Passport System* regarding the Filer's intent to rely on the August 20, 2010 Order for comparable relief in the Non-Principal Jurisdictions.

7. The Filer wishes to offer IB Forex transactions to investors in the Applicable Jurisdictions on the terms and conditions described in this Decision. For the Interim Period (as defined below), the Filer is seeking the Requested Relief in connection with the proposed offering of IB Forex transactions in Ontario and intends to rely on this Decision and the Passport System described in MI 11-102 to offer IB Forex transactions in the Non-Principal Jurisdictions.

8. In Québec, the Filer has applied for, and has been granted, qualification under section 82 of the *Derivatives Act* (Québec) (the **QDA**) and authorization referred to in the second paragraph of section 82 or in section 83 of the QDA from the *Autorité des marchés financiers* (the **AMF**) to offer IB Forex transactions to both accredited and retail investors pursuant to the provisions of the QDA.

9. As a member of IIROC, the Filer is only permitted to enter into IB Forex transactions pursuant to the rules and regulations of IIROC (the **IIROC Rules**).

10. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's "*Regulatory Analysis of Contracts for Differences* (**CFDs**)" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer OTC foreign exchange contracts or other types of CFDs to investors. To the best of its knowledge, the Filer is in compliance with IIROC Acceptable Practices in offering IB Forex transactions to clients. The Filer will continue to offer the IB Forex transactions to

clients in accordance with IIROC Acceptable Practices as may be established from time to time.

11. The Filer is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Joint Regulatory Financial Questionnaire (the **JRFQ**) and the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations as to ensure capital adequacy. The Filer as an IIROC member is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the firm's JRFQ and required to be kept positive at all times.

IB Forex

12. Interactive Brokers provides two vehicles for the exchange of currencies: (i) *IDEALPRO* which allows a customer trade in foreign exchange and (ii) *IDEAL* which allows a customer to convert their balances from one currency to another (forex conversions).

13. For the purposes of this Application, IB Forex transactions include those transactions entered into on *IDEALPRO* and the forex conversions that are conducted through *IDEAL*.

14. IB Forex transactions are OTC and are not transferable.

15. The ability to lever an investment is one of the principal features of foreign exchange contracts and transactions. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying currency. Leverage is only permissible on the *IDEALPRO* network.

16. IIROC Rules and IIROC Acceptable Practices each set out detailed requirements and expectations relating to leverage and margin for offerings of foreign exchange contracts. The degree of leverage may be amended in accordance with IIROC Rules and IIROC Acceptable Practices as may be established from time to time.

17. Pursuant to Section 13.12 *Restriction on lending to clients* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* which came into force as of September 28, 2009, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

Online Trading Platform

18. Interactive Brokers has developed a module of Interactive Brokers' TWS on-line trading platform to specifically allow IB Forex transactions called FXTrader® (**FXTrader**), that offers clients direct access to interbank prices and dealing for orders as small as 25,000 USD (or equivalent), and up to 10 million USD, or more. FXTrader provides best-execution functionality and a transparent pricing structure. The Filer offers trading in 13 currencies (USD, EUR, CHF, GBP, SEK, NOK, JPY, AUD, NZD, HKD, CAD, MXN, and a special conversion functionality in KRW) with market spreads as small as 1/2 PIP. The tight spreads and substantial liquidity are a result of combining quotation streams from 12 of the world's largest foreign exchange dealers which provide, directly or indirectly, more than half of the momentary capital available in the global interbank market.

19. FXTrader provides an optimized trading interface, with Interactive Broker-designed tools to trade the forex markets. The price display emphasizes the critical portion of the bid/ask, and conveys price movement at a glance by showing an increasing price in green and decreasing price in orange. Each currency pair occupies its own "cell," complete with market data and order information, where a client can create, transmit and cancel orders with a single click. Overall order, trade and portfolio information is displayed along the top of the currency pairs grid.

20. Key features of the FXTrader platform includes:

- Interbank-quality spreads allow clients to trade the best bid and ask from multiple liquidity providers with spreads as low as ½ pip;
- The ability to review order details and margin implications before a client transmits;
- Instantaneous transmission to transmit a clients orders with one click on the bid or ask;
- FXTrader supports over 15 risk-mitigation order types including trailing stop limits, brackets, limit if touched, OCA (one cancels all) and IOC (immediate or cancel);
- The functionality of the Order Book icon which appears when the small-order book has a better price available for the currency pair; and

- The ability of a client to customize the trading cell display to show position, average cost and profit and loss date.

21. Clients conduct IB Forex transactions through the Filer's on-line trading platform, FXTrader®. The Filer's on-line platform is similar to those developed for on-line brokerages and day-trading in that the client trades without other communication with, or advice from, the dealer. The FXTrader® is not a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner. FXTrader® does not bring together multiple buyers and sellers; rather it offers clients direct access to interbank prices.

IB Forex Transactions in the Applicable Jurisdictions

22. Foreign exchange contracts and similar OTC derivative transactions, including IB Forex transactions, when offered to investors in Canada, may be considered to be "securities" under securities legislation of the Applicable Jurisdictions.

23. Investors wishing to enter into IB Forex transactions must open an account with the Filer.

24. Prior to a client's first IB Forex transaction and as part of the account opening process, the Filer will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **risk disclosure document**). The risk disclosure document includes the required risk disclosure set forth in Schedule A to the Regulations to the QDA and leverage risk disclosure required under the IIROC Rules. The risk disclosure document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options* (**OSC Rule 91-502**) (which provides both registration and prospectus exemptions) and the regime for OTC derivatives contemplated by OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* (**OSC SN 91-702**) and proposed OSC Rule 91-504 OTC *Derivatives* (which was not adopted) (**Proposed Rule 91-504**). The Filer will ensure that, prior to a client's first trade in an IB Forex transaction, a complete copy of the risk disclosure document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.

25. Prior to the client's first IB Forex transaction and as part of the account opening process, the Filer will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the risk disclosure document. Such acknowledgment will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.

26. As customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Filer (such as changes in IIROC Rules), information such as the margin or leverage rates would not be disclosed in the risk disclosure document but are part of a client's account opening package and are available on both the Filer's website and on FXTrader®.

Satisfaction of the Registration Requirement

27. The role of the Filer as it relates to the IB Forex transactions will be limited to acting as an execution-only dealer. In this role, the Filer will, among other things, be responsible to approve all marketing, for holding of clients funds, and for client approval (including the review of know-your-client (**KYC**) due diligence and account opening suitability assessments).

28. IIROC Rules exempt member firms that provide execution-only services such as discount brokerages from the obligation to determine whether each trade is suitable for the client. However, IIROC has exercised its discretion to impose additional requirements on members proposing to trade in foreign exchange contracts and requires, among other things, that:

    (a) Applicable risk disclosure documents and client suitability waivers provided must be in a form acceptable to IIROC;

    (b) The firm's policies and procedures, amongst other things, require the Filer to assess the depth of investment knowledge and trading experience of the client to assess whether the product is appropriate for the client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience, client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities;

    (c) The Filer's registered salespersons and supervisory trading officer who conduct KYC and initial product suitability analysis will meet IIROC's proficiency requirements for futures trading and shall maintain appropriate IIROC registration; and

(d) Cumulative loss limits for each client's account must be established (this is a measure normally applied by IIROC in connection with futures trading accounts).

29. The IB Forex transactions are offered in compliance with applicable IIROC Rules and other IIROC Acceptable Practices.

30. The Requested Relief, if granted, would substantially harmonize the position of the regulators in the Applicable Jurisdictions on the offering of foreign exchange contracts to investors in the Applicable Jurisdictions with how those products are offered to investors in Quebec under the QDA. The QDA provides a legislative framework to govern derivatives activities within the province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute foreign exchange contracts to investors resident in Quebec.

31. The Requested Relief, if granted, would be consistent with the guidelines articulated by Staff of the Principal Regulator in OSC SN 91-702. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, foreign exchange contracts (forex or FX contracts) and similar OTC derivative products to investors in the Jurisdiction.

32. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario* (**OSC Rule 91-503**) provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.

33. The Filer also submits that the Requested Relief, if granted, would harmonize the Principal Regulator's position on the offering of foreign exchange contracts with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.

34. The Filer is of the view that requiring compliance with the prospectus requirement in order to enter into IB Forex transactions with clients in the Jurisdiction would not be appropriate since the disclosure of a great deal of the information required under the prospectus and under the reporting issuer regime is not material to a client seeking to enter into an IB Forex transaction. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most IB Forex transactions are of short duration (positions are generally opened and closed on the same day and are in any event marked to market and cash settled daily).

35. The Filer is regulated by IIROC which has a robust compliance regime including specific requirements to address market, capital and operational risks pursuant to the IIROC Rules and the IIROC Acceptable Practices.

36. The Filer submits that the regulatory regimes developed by the AMF and IIROC for foreign exchange contracts, including IB Forex transactions, adequately addresses issues relating to the potential risk to the client of the Filer acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Filer to also comply with the prospectus requirement.

37. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the Filer being registered as an investment dealer with the securities regulator in such Applicable Jurisdiction and maintaining its membership with IIROC and that all IB Forex transactions be conducted pursuant to IIROC Rules and in accordance with IIROC Acceptable Practices.

Decision

The Principal Regulator is satisfied that the test set out in the Legislation to make the Decision is met.

The Decision of the Principal Regulator is that the Requested Relief is granted provided that:

(a) The Filer shall not rely on any of (i) the August 20, 2010 Order and (ii) the July 27, 2011 notice;

(b) all IB Forex transactions with residents in the Applicable Jurisdictions shall be distributed through the Filer;

(c) with respect to residents of an Applicable Jurisdiction, the Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and each securities regulatory authority in such Applicable Jurisdiction and a member of IIROC;

(d) all IB Forex transactions with clients resident in the Applicable Jurisdictions shall be conducted

pursuant to IIROC Rules imposed on members seeking to trade in foreign exchange contracts and in accordance with IIROC Acceptable Practices, as amended from time to time;

(e) if the Filer continues to offer IB Forex transactions to residents of Québec, all IB Forex transactions with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between i) the rules and regulations of the QDA and the AMF, and ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and IIROC Acceptable Practices, in which case the latter shall prevail;

(f) prior to a client first entering into an IB Forex transaction, the Filer has provided to the client the risk disclosure document described in paragraph 24 and has delivered, or has previously delivered, a copy of the risk disclosure document provided to that client to the Principal Regulator;

(g) prior to a client's first IB Forex transaction and as part of the account opening process, the Filer has obtained a written or electronic acknowledgement from the client, as described in paragraph 25, confirming that the client has received, read and understood the risk disclosure document;

(h) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers or directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;

(i) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a counterparty to a derivative to be material;

(j) the Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filer concerning the conduct of activities with respect to IB Forex transactions;

(k) within 90 days following the end of its financial year, the Filer shall submit to IIROC and the Principal Regulator the audited annual financial statements of the Filer; and

(l) the Requested Relief shall immediately expire upon the earliest of

(i) four years from the date that this Decision is issued;

(ii) in respect of a subject Applicable Jurisdiction or Quebec, the issuance of an order or decision by a court, the securities regulatory authority in such Applicable Jurisdiction, the AMF (in respect of Quebec) or other similar regulatory body that suspends or terminates the ability of the Filer to offer foreign exchange contracts to clients in such Applicable Jurisdictions; and

(iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its securities regulatory authority regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction (the Interim Period).

"Vern Krishna"
Commissioner
Ontario Securities Commission

"James Turner"
Vice Chair
Ontario Securities Commission

2.1.11 Longview Oil Corp. – s. 1(10)

Headnote

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

Ontario Statutes

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

August 11, 2014

McCarthy Tétrault LLP
4000, 421 – 7 Avenue SW
Calgary, AB T2P 4K9

Attention: Jin Xiaodi

Dear Sir:

Re: Longview Oil Corp. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

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

"Jonathan Taylor"
Manager, CD Compliance & Market Analysis
Corporate Finance
Alberta Securities Commission

2.1.12 Canadian Malartic Corporation – s. 1(10)

Headnote

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

Ontario Statutes

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

July 17, 2014

Canadian Malartic Corporation
1100 Avenue des Canadiens-de-Montréal
Bureau 300
Montréal, Québec H3B 2S2

Attention: Mr. Gregory R. Laing

Dear Sir:

Re: Canadian Malartic Corporation (the Applicant) – application for a decision under the securities legislation of Québec, Alberta, Saskatchewan, Manitoba and Ontario (the "Jurisdictions") that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

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

2.1.13 360 VOX Corporation

Headnote

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

Ontario Statutes

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

July 29, 2014

IN THE MATTER OF
HE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA,
ONTARIO AND SASKATCHEWAN
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
360 VOX CORPORATION
(the Filer)

DECISION

Background

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

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

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

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

Interpretation

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 a corporation governed by the *Business Corporations Act* (Ontario) (the OBCA);

2. the Filer's corporate and head office is located at 2001, rue University – Bureau 400, Montreal, Quebec, Canada, H3A 2A6;

3. the Filer is a reporting issuer in each of the Jurisdictions and no other Canadian provinces or territories;

4. the Filer is not in default of any of its obligations under the Legislation;

5. on July 2, 2014, the Filer completed a court-approved plan of arrangement (the Arrangement) under section 182 of the OBCA; under the Arrangement, among other things:

   (a) Dundee Corporation (Dundee) acquired all of the issued and outstanding Shares (as defined below) in the capital of the Filer that Dundee and its affiliates did not already own, for consideration consisting of 0.01221 of a Class A subordinate voting share in the capital of Dundee for each Share acquired; and

   (b) each outstanding option and warrant of the Filer, other than the Warrants (as defined below), was cancelled;

6. the Filer's authorized share capital consists of an unlimited number of class A common shares (the Shares), an unlimited number of class B common shares and an unlimited number of class C common shares; the Filer has 276,732,441 issued and outstanding Shares and no issued and outstanding class B common shares or class C common shares;

7. as a result of the Arrangement, the Shares of the Filer are beneficially owned, directly or indirectly, by Dundee, an institutional security holder headquartered in Ontario;

8. the Filer also has outstanding:

   (a) a Cdn.$700,000 7.5% convertible unsecured subordinated debenture due April 26, 2018, held by one security holder resident in Ontario;

   (b) a Cdn.$8,800,000 7.5% convertible unsecured subordinated debenture due April 26, 2018, held by one security holder resident in Ontario (together, items (a) and (b), the Debentures);

(c) a Series US 2013 – W1 Warrant Certificate of the Filer dated April 26, 2013 representing 1,666,000 share purchase warrants (the Warrants), held by one security holder resident in Ontario; and

(d) 4,200,000 restricted share units (RSUs) granted under the Filer's long term incentive plan, held by six security holders resident in Quebec (together, items (a), (b), (c), and (d), the Outstanding Securities);

9. as a result of the Arrangement, the Debentures and the Warrants are convertible into Class A subordinate voting shares in the capital of Dundee;

10. other than the Shares and the Outstanding Securities, the Filer has no other securities outstanding;

11. as a result of the Arrangement, the Filer is now a wholly owned subsidiary of Dundee;

12. the Filer's Shares were delisted from the TSX Venture Exchange effective as of close of trading on July 3, 2014;

13. the Filer does not currently intend to seek public financing by an offering of its securities in Canada;

14. the Filer did not surrender its status as a reporting issuer in British Columbia under BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* (the BC Instrument) in order to avoid the 10-day waiting period under the BC Instrument;

15. the outstanding securities of the Filer, including debt securities, are now beneficially owned by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total worldwide;

16. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

17. the Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Application for a Decision that an Issuer is not a Reporting Issuer* in order to apply for the decision sought because it is a reporting issuer in British Columbia; and

18. the Filer, upon granting of the Exemptive Relief Sought, will no longer be a reporting issuer or the equivalent in any jurisdiction in Canada.

Decision

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

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

"Michael L. Moretto, CA, CPA (Illinois)"
Acting Director, Corporate Finance
British Columbia Securities Commission

2.1.14 True North Apartment Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 51-102 Continuous Disclosure Obligations – Application for relief from requirement in Section 8.4 of NI 51-102 to include certain financial statement disclosure in a business acquisition report required to be filed in connection with a significant acquisition – Vendor not in possession of, and unable to, access or obtain certain financial statements for the period prior to the acquisition of the property – Filer completed the acquisition of the subject properties – Filer has made every reasonable effort to obtain access to, or copies of, the historical accounting records in respect of the acquired the subject properties but such efforts were unsuccessful – Certain financial statements are not material since the subject properties are not material in the context of the combined operations of the filers and its portfolio of properties as a whole – Prospectus includes satisfactory alternative financial statements or other information required to be included in, or incorporated by reference into, a business acquisition report filed under Part 8 of NI 51-102 – Relief granted subject to conditions.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4(1) and (3).

July 25, 2014

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 subsections 8.4(1) and (3) of NI 51-102 provided that the business acquisition report (**BAR**) for the Acquisition (defined below) includes Proposed Alternative Disclosure (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 (together with Ontario, the **Jurisdictions**).

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 3300 Bloor Street West, Suite 1801, West Tower, Toronto, ON, M8X 2X2.

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 in Canada. The Filer is currently not in default of any applicable requirements under the securities legislation.

3. The units of the Filer are listed and posted on the Toronto Stock Exchange (the **TSX**) under the symbol "TN.UN".

4. 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. Prior to the Acquisition, the Filer owned an aggregate of 6,002 residential suites located in Alberta, Ontario, Québec, New Brunswick and Nova Scotia.

5. The Filer entered into an agreement with various entities controlled by Daniel Drimmer (collectively, the **Vendor**) whereby the Filer acquired on June 27, 2014, 29 properties (the **Properties**) comprised of 2,824 residential suites and an instalment note (the **Acquisition**) for an aggregate price of approximately $286.0 million.

6. Each Vendor entity is formed under the laws of the Province of Ontario. In addition to controlling each Vendor entity, Mr. Drimmer is the sole shareholder of Starlight Investments Ltd. (**Starlight**), the asset manager of the Filer. Daniel Drimmer is also a trustee of the Filer.

7. A special committee of independent trustees of the Filer was established for the purposes of supervising the process to be 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*, the applicable policies of the TSX, applicable law and the Filer's governing documents.

8. In anticipation of funding of the Acquisition, the Filer filed a short form prospectus dated June 9, 2014, that contained full true and plain disclosure regarding the Acquisition.

9. The Acquisition may be considered an "acquisition of related businesses" pursuant to section 8.1 of NI 51-102 and as result would constitute a "significant acquisition" of the Filer for the purposes of NI 51-102, as determined in accordance with the tests prescribed by section 8.3 of NI 51-102. The Filer will therefore be required to file a BAR within 75 days of the completion of the Acquisition pursuant to section 8.2 of NI 51-102.

10. Pursuant to section 8.4 of NI 51-102, the business acquisition report for the Acquisition 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 (the **Audited Requirements**); and

    (ii) unaudited financial statements for the financial year immediately preceding the most recently completed financial year of the business acquired (the **Comparative Unaudited Requirements**).

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

11. Subsection 8.4(8) of NI 51-102 provides that if a reporting issuer required to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statement 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.

12. Complete financial records for six Properties which were acquired by the Vendor during 2012, being 33 Richmond Street West, Oshawa, Ontario, 155 Market Street, Hamilton, Ontario, 285 Erb Street West, Waterloo, Ontario, 10 Cartier Court, Brockville, Ontario, 2 Colborne Street West, Lindsay, Ontario and 25 Westwood Court, Lindsay, Ontario; and two Properties which were acquired by the Vendor on February 1, 2013 and April 8, 2013, being 1 Rosemount Drive, Toronto, Ontario and 840 Water Street, Peterborough, Ontario, respectively (the **Subject Properties**), representing approximately 7% of the balance sheet requirements relating to the Comparative Unaudited Requirements for the year ended December 31, 2012, and approximately 19.3% of the operating results of the Properties for the fiscal year 2012 relating to the Comparative Unaudited Requirements (or approximately 9.9% of the operating results over fiscal 2012 and 2013), as well as approximately 0.7% of the operating results of the Properties (relating to two of the Subject Properties) for the fiscal year 2013 and 2.7% of the operating results of the Properties (relating to two of the Subject Properties) for the comparative three month period ended March 31, 2013, do not exist (the **Unavailable Financial Information**). The Filer will have complete financial information to satisfy the audited balance sheet for December 31, 2013, for all of the Properties, which is required by the BAR Financial Statement Requirements.

13. The Subject Properties were acquired by the Vendor from small, non-institutional and relatively unsophisticated sellers, including family owned privately held corporations, which did not maintain adequate historical accounting records. The Vendor, through Starlight, its professional asset manager, routinely requests extensive due diligence regarding each property that the Vendor is considering to acquire.

14. It is submitted that the Subject Properties are relatively immaterial to the Filer and its portfolio of

properties, as a whole (including the Properties), in the context of the combined operations of the Filer, including the acquisition of the Properties, as demonstrated by the following: (i) the aggregate appraised value of the Subject Properties is approximately $78.7 million, representing 9.5% of the approximately $824.8 million aggregate appraised value of all of the properties that the Filer currently owns; (ii) the estimated net operating income of the Subject Properties is approximately $3.6 million, representing approximately 7.9% of the approximately $46.3 million *pro forma* net operating income for all of the properties that the Filer currently owns; and (iii) the number of residential suites represented by the Subject Properties is 724, representing 8.2% of the 8,826 aggregate residential suites that the Filer currently owns.

15. In making the investment decision to acquire the Properties, audited historical financial statements were not relied upon by the Filer. Accordingly, the Filer submits that the Unavailable Financial Information is not material to the investment decision to be made by a potential investor. The Filer has made every reasonable effort to obtain access to, or copies of, the Unavailable Financial Information, but such efforts were unsuccessful. The Vendor does not possess nor have access to, and is not entitled to obtain access to, financial information in respect of the Subject Properties for any period prior to the acquisition of such properties by the Vendor.

16. But for the Unavailable Financial Information, the Filer is able to satisfy the BAR Financial Statement Requirements for the Properties and otherwise satisfy the requirements to prepare and file a BAR in accordance with NI 51-102.

17. The Filer proposes to include in its BAR the following alternative disclosure regarding the Properties, in lieu of the financial statements otherwise required by subsections 8.4(1) and (3):

    (a) audited annual carve-out financial statements of the Properties for the year ended December 31, 2013 with unaudited comparative financial statements for the Properties for the year ended December 31, 2012, and unaudited financial statements for the interim periods ended March 31, 2014 and 2013 (in each case, excluding the Unavailable Financial Information) (collectively, the **Properties Historical Financial Statements**); and

    (b) *pro forma* financial statements of the Filer as at March 31, 2014 and for the three months ended March 31, 2014 and the year ended December 31, 2013 that gives effect to the Acquisition, prepared in accordance with subsection 8.4(5) of NI 51-102 (the ***Pro Forma* Financial Statements**).

18. Management of the Filer considers the Properties (including the Subject Properties) to be stable properties, and therefore believes that the Properties Historical Financial Statements for the year ended December 31, 2013 are indicative of the results for the comparative period ended December 31, 2012.

19. Each of the financial statements referred to in paragraph 16 were prepared in accordance with International Financial Reporting Standards applicable to publicly accounted enterprises.

20. The *Pro Forma* Financial Statements included information regarding all of the Properties (including the Subject Properties).

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 with respect to the BAR provided that the Filer includes in the BAR the following financial statements required to be filed by the Filer in connection with a significant acquisition completed by the Filer in connection with the Acquisition:

a. the *Pro Forma* Financial Statements; and

b. the Properties Historical Financial Statements.

"Sonny Randhawa"
Manager, Corporate Finance Branch

2.1.15 The Brick Ltd. – s. 1(10)(a)(ii)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

Citation: Re The Brick Ltd., 2014 ABASC 309

August 11, 2014

The Brick Ltd.
16930 – 114 Avenue
Edmonton, AB T5M 3S2

Attention: Gregory Nakonechny

Dear Sir:

Re: The Brick Ltd. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, “securityholder” means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

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

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

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

"Denise Weeres"
Manager, Legal
Corporate Finance

2.2 Orders

2.2.1 McGraw-Hill Ryerson Limited – 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
MCGRAW-HILL RYERSON LIMITED
(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 common shares (the **Common Shares**), of which 1,996,638 were issued and outstanding.

2. The head office of the Applicant is located at 300 Water Street, Whitby, Ontario, L1N 9B6.

3. On April 16, 2014, the Applicant and McGraw-Hill Global Education Holdings, LLC (**MHE**) entered into a definitive agreement for MHE to acquire all of the issued and outstanding shares of the Applicant not already owned by MHE. The acquisition was effected pursuant to a statutory plan of arrangement under the OBCA on June 17, 2014 (the **Arrangement**). As a result of the Arrangement, the Applicant is now wholly-owned by MHE.

4. As of the date of this decision, all of the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by a sole shareholder, 2412849 Ontario Inc., a wholly-owned subsidiary of MHE.

5. The Common Shares have been de-listed from the Toronto Stock Exchange, effective as of the close of trading on June 18, 2014 and no securities of the Applicant are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.

6. The Applicant is a reporting issuer, or the equivalent, in the Provinces of Ontario, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick and Prince Edward Island (the **Jurisdictions**), and is currently not in default of any of the applicable requirements under any securities legislation of the Jurisdictions. The Applicant has applied for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer (the **Relief Requested**).

7. The Applicant has no intention to seek public financing by way of an offering of securities.

8. Upon granting of the Relief Requested, the Applicant will not be a reporting issuer, or the equivalent, in any jurisdiction in Canada.

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

IT IS HEREBY ORDERED 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 29th day of July, 2014.

"Vern Krishna"
Commissioner
Ontario Securities Commission

"Mary Condon"
Commissioner
Ontario Securities Commission

2.2.2 Mediterranean Resources Ltd. – s. 144

Headnote

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

Statutes Cited

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

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

AND

IN THE MATTER OF
MEDITERRANEAN RESOURCES LTD.
(the Reporting Issuer)

ORDER
(Section 144)

Background

On May 20, 2014, the Director made an order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

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

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

Representations

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

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

2. The Reporting Issuer is not in default of the Cease Trade Order.

3. Except for the Default, the Reporting Issuer is not in default of any requirements under Ontario securities law.

4. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law.

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

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

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

8. The Reporting Issuer was also subject to similar cease trade orders issued by the British Columbia Securities Commission (BCSC) and the Manitoba Securities Commission (MSC) as a result of the failure to make the filings described in the Cease Trade Order. The orders issued by the BCSC and MSC were revoked on June 3 and June 4, 2014, respectively.

Order

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

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

Dated: August 1st , 2014

"Shannon O'Hearn"
Manager, Corporate Finance

2.2.3 Wealth Stewards Portfolio Management Inc. and Sushila Lucas – s. 8(4) of the Act and Rule 9.2 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
WEALTH STEWARDS PORTFOLIO MANAGEMENT INC. and SUSHILA LUCAS

ORDER
(Subsection 8(4) of the Act and Rule 9.2 of the OSC Rules of Procedure)

WHEREAS Wealth Stewards Portfolio Management Inc. ("Wealth Stewards") is registered as an adviser in the category of portfolio manager and the majority of the accounts advised by Wealth Stewards are managed by an appropriately registered sub-adviser;

AND WHEREAS on June 13, 2014, a Director of the Compliance and Registrant Regulation branch of the Ontario Securities Commission (the "Commission") issued a decision with respect to the registrations of Wealth Stewards and Sushila Lucas ("Lucas") that:

(a) the registration of Wealth Stewards be suspended indefinitely;

(b) the registration of Lucas as ultimate designated person ("UDP") and chief compliance officer ("CCO") be suspended for a period of three years;

(c) the registration of Lucas as an advising representative be suspended for a period of six months;

(d) Lucas successfully complete the *Partners, Directors and Senior Officers Course* (the "PDO") before applying for reinstatement of registration as a UDP;

(e) Lucas successfully complete both the PDO and the *Chief Compliance Officers Qualifying Exam* before applying for reinstatement of registration as a CCO; and

(f) Lucas successfully complete the *Conduct and Practices Handbook Course* before applying for reinstatement as an advising representative;

(the "Director's Decision");

AND WHEREAS on June 18, 2014, Wealth Stewards and Lucas (together the "Applicants") requested a hearing and review of the Director's Decision by the Commission pursuant to subsection 8(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") (the "Hearing and Review") and pursuant to subsection 8(4) of the Act, the Applicants requested a stay of the Director's Decision pending the disposition of the Hearing and Review;

AND WHEREAS on June 23, 2014, on the consent of the parties, the Commission ordered that the Director's Decision be stayed until the determination of the Hearing and Review by the Commission, subject to the following conditions:

(1) the stay order shall continue in force until the parties have the opportunity at the Hearing and Review to address the issuance of a further stay order by the Panel presiding over the Hearing and Review, and shall continue in force until August 29, 2014 or upon further order of the Commission;

(2) the Applicants shall serve and file the record of the proceeding before the Director, any statement of fact and law and shall comply with Rule 14.5 of the *OSC Rules of Procedure* by August 19, 2014;

(3) Staff of the Commission shall deliver any record in response, any statement of fact and law and shall comply with Rule 14.5 by August 25, 2014;

(4) the Hearing and Review shall be heard on August 28 and 29, 2014;

(5) the Applicants shall post a link to the Director's Decision and this Order on the homepage of the Wealth Stewards website forthwith with a description of the links;

(6) the Applicants shall provide a copy of the Director's Decision and this Order to all existing clients;

(7) Wealth Stewards may state on its website and when providing the Director's Decision to clients that "the decision to suspend the registration of Wealth Stewards was stayed on terms pursuant to the decision of the Commission dated June 23, 2014. An application for a hearing and review of the Director's Decision under section 8 of the Act has been requested and is scheduled for August 28 and 29, 2014 before a panel of the Commission," and may not otherwise make any public statements on its website or in any press release that is inconsistent with the Director's Decision and/or this Order;

(8) the Applicants shall not accept any new clients in respect of Wealth Stewards' portfolio management business;

(9) the Applicants shall ensure that all currently sub-advised managed accounts continue to be sub-advised by an appropriately registered portfolio manager;

(10) any contact or communication between Wealth Stewards and its clients in respect of its portfolio management business must be made solely by Lucas, and any recommendations in respect of any managed accounts advised by Wealth Stewards must be made solely by Lucas; and

(11) until further order by the Commission, Wealth Stewards shall not permit Bruce Deck to withdraw any funds or otherwise receive any compensation whatsoever in respect of Wealth Stewards' portfolio management business accrued between the date of the Director's Decision and the date of the decision on the Hearing and Review;

(the "Stay Order");

AND WHEREAS on July 31, 2014, the Applicants advised the Commission that they are pursuing a sale of the assets of Wealth Stewards and expect that an application pursuant to section 11.9 or 11.10 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") in respect of Wealth Stewards will be filed with the Commission by August 14, 2014 and, as a result, the Applicants seek an adjournment of the Hearing and Review to September 25 and 26, 2014;

AND WHEREAS Staff advises that on the understanding that a section 11.9 or 11.10 application will be filed in relation to Wealth Stewards by August 14, 2014, Staff consents to an adjournment of the Hearing and Review to September 25 and 26, 2014 and to an extension of the timelines set out at paragraphs (2) and (3) of the Stay Order as set out below;

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) subject to the modifications to the Stay Order set out herein, the Stay Order is extended until the parties have the opportunity at the Hearing and Review to address the issuance of a further stay order by the Panel presiding over the Hearing and Review, and in any event shall continue in force no later than September 26, 2014;

(2) the Hearing and Review scheduled pursuant to the Stay Order is adjourned to September 25, 2014 commencing at 10:00 a.m. and shall continue on September 26, 2014 commencing at 10:00 a.m.;

(3) paragraph (2) of the Stay Order is deleted and replaced by the following:

> The Applicants shall serve and file the record of the proceeding before the Director, any statement of fact and law and shall comply with Rule 14.5 of the *OSC Rules of Procedure* by September 16, 2014;

(3) paragraph (3) of the Stay Order is deleted and replaced by the following:

> Staff of the Commission shall deliver any record in response and any statement of fact and law, and shall comply with Rule 14.5, by September 22, 2014;

(4) paragraph (7) of the Stay Order is deleted and replaced by the following:

> Wealth Stewards may state on its website and when providing the Director's Decision to clients that "the decision to suspend the registration of Wealth Stewards was stayed on terms pursuant to the decision of the Commission dated June 23, 2014. An application for a hearing and review of the

Director's Decision under section 8 of the Act has been requested and is scheduled for September 25 and 26, 2014 before a panel of the Commission;" and

(5) Wealth Stewards may not otherwise make any public statements on its website or in any press release that is inconsistent with the Director's Decision and/or this Order.

DATED at Toronto this 1st day of August, 2014.

"James E. A. Turner"

2.2.4 Gold-Quest International and Sandra Gale – s. 127

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL and SANDRA GALE

ORDER
(Section 127 of the Securities Act)

WHEREAS on April 1, 2008, the Ontario Securities Commission (the "**Commission**") ordered, pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), that all trading in any securities of Gold-Quest International ("**Gold-Quest**") shall cease (the "**Temporary Order**");

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan shall cease;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest, Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest's officers, directors, agents or employees;

AND WHEREAS on April 8, 2008, the Commission issued a Notice of Hearing to consider among other things, the extension of the Temporary Order;

AND WHEREAS on April 15, 2008 the Temporary Order was extended by the Commission with some amendments (the "**Amended Temporary Order**");

AND WHEREAS the Amended Temporary Order has been extended from time to time, most recently, on December 10, 2009, until the completion of the hearing on the merits;

AND WHEREAS on March 13, 2009, the Commission issued a Notice of Hearing of pursuant to sections 127 and 127.1 of the Act, accompanied by a Statement of Allegations dated March 12, 2009, issued by Staff of the Commission ("**Staff**") with respect to Gold-Quest, 1725587 Ontario Inc. carrying on business as Health and HarMONEY, the Harmoney Club, Donald Iain Buchanan, Lisa Buchanan and Sandra Gale;

AND WHEREAS on March 20, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to May 26, 2009;

AND WHEREAS on May 26, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to June 25, 2009;

AND WHEREAS on June 25, 2009, upon hearing submissions from counsel for Staff, counsel for Sandra Gale, and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to August 20, 2009;

AND WHEREAS on August 20, 2009, upon hearing submissions from counsel for Staff and counsel for Sandra Gale, it was ordered that a pre-hearing conference be held on October 9, 2009;

AND WHEREAS on October 9, 2009, a pre-hearing conference was commenced and counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan attended before the Commission;

AND WHEREAS on October 9, 2009, counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan requested, and it was ordered, that the pre-hearing conference be continued on December 10, 2009;

AND WHEREAS on December 10, 2009, the pre-hearing conference was continued and counsel for Staff, Sandra Gale, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan made submissions to the Commission;

AND WHEREAS Staff advised that certain of the parties intended to file an agreed statement of facts prior to the commencement of the hearing scheduled to commence on March 25, 2010 to consider sanctions and other related matters;

AND WHEREAS on December 10, 2009, the Commission ordered that the hearing be adjourned to March 25, 2010 and March 26, 2010 for the purpose of considering sanctions for certain of the respondents and for any other purpose that the parties may advise the Office of the Secretary;

AND WHEREAS on December 10, 2009, it was further ordered that the motion for leave of the Commission to withdraw brought by counsel for Sandra Gale was granted and leave of the Commission was granted for counsel to withdraw;

AND WHEREAS Staff and the respondents agreed to request that the hearing should be further adjourned;

AND WHEREAS on March 23, 2010, the hearing was adjourned to April 28, 2010 and April 29, 2010 for the purpose of considering sanctions against certain of the respondents and for any other purpose that the parties may advise the Office of the Secretary;

AND WHEREAS on April 28, 2010, Staff and counsel for Donald Iain Buchanan and Lisa Buchanan submitted an Agreed Statement of Facts on behalf of each of Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS on April 28 and September 3, 2010, Staff and counsel for Donald Iain Buchanan and Lisa Buchanan appeared before the Commission for the purpose of considering sanctions and costs;

AND WHEREAS on November 26, 2010, the Commission issued its reasons and decision on sanctions and costs with respect to Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS on March 4, 2013, Staff withdrew the allegations against Harmoney Club and Health and HarMONEY, because these companies had been administratively dissolved and cancelled, respectively;

AND WHEREAS on March 6, 2013, Staff filed an Amended Statement of Allegations with respect to Gold-Quest and Sandra Gale;

AND WHEREAS Staff requested that a pre-hearing conference be held on February 6, 2014 and such pre-hearing conference was scheduled for that date;

AND WHEREAS counsel for Sandra Gale requested that the pre-hearing conference be adjourned and Staff consented to the adjournment;

AND WHEREAS on February 5, 2014, the Commission ordered that the pre-hearing conference scheduled for February 6, 2014 be vacated and was adjourned to April 1, 2014 at 10:00 a.m.;

AND WHEREAS on April 1, 2014, the Commission held a confidential pre-hearing conference, and Staff appeared and requested that the hearing be adjourned to a status update and advised the Commission that counsel for Sandra Gale consented to adjourning the hearing to a status update;

AND WHEREAS Gold-Quest did not appear, although properly served with notice of the hearing;

AND WHEREAS on April 1, 2014, the Commission ordered that the hearing be adjourned and shall continue on June 4, 2014 at 10:00 a.m. to provide the Panel with a status update;

AND WHEREAS on June 4, 2014, Staff and counsel for Sandra Gale appeared before the Commission for a status update;

AND WHEREAS Gold-Quest did not appear, and the Commission was satisfied with Staff's attempt to serve Gold-Quest with notice of the hearing;

AND WHEREAS on June 4, 2014, the Commission ordered that the hearing be adjourned and shall continue on September 10, 2014 at 11:00 a.m. for a sanctions hearing in the event that an Agreed Statement of Facts is executed by both parties, and further ordered that in the event that an Agreed Statement of Facts is not reached, the parties shall appear at a

confidential pre-hearing conference on August 13, 2014 at 1:00 p.m., or such other date as are agreed to by the parties and determined by the Office of the Secretary;

AND WHEREAS on August 5, 2014, Staff informed the Office of the Secretary that an Agreed Statement of Fact was reached between Staff and Gale, and Staff asked to vacate the confidential pre-hearing conference scheduled for August 13, 2014 and to proceed on September 10, 2014 for a sanctions and costs hearing;

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

IT IS ORDERED that the confidential pre-hearing conference schedule for August 13, 2014 at 1:00 p.m. is vacated and the sanctions and costs hearing in this matter shall take place on September 10, 2014 at 11:00 a.m.

DATED at Toronto this 6th day of August, 2014.

“Alan J. Lenczner”

2.2.5 Rodocanachi Capital Inc. – s. 144

Headnote

Application by an issuer for a full revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Statutes Cited

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

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

AND

IN THE MATTER OF
RODOCANACHI CAPITAL INC.

ORDER
(Section 144)

WHEREAS the securities of Rodocanachi Capital Inc. (the "**Applicant**") are subject to a cease trade order dated December 16, 2011 issued by the Director of the Ontario Securities Commission (the "**Commission**") 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 Ontario Cease Trade Order is revoked by the Director;

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

AND WHEREAS the Applicant has applied to the Commission pursuant to section 144 of the Act to revoke the Ontario Cease Trade Order;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a Québec incorporated company. The Applicant's registered office is located at 1002 Sherbrooke O., 28e étage, Montréal (Québec) H3A 3L6.

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 6,400,000 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 November 2, 2009, trading in the Common Shares on the TSX Venture Exchange (the "**Exchange**") was suspended. The Exchange advised the Applicant that it did not meet Tier 2 Continued Listing Requirements of the Exchange and effective December 6, 2011 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 securities law, interim financial statements and the related management's discussion and analysis for the period ended August 31, 2011 and certification of the foregoing filings as required by National Instrument 52-109, *Certification of Disclosures in Issuers' Annual and Interim Filings*, (collectively, the "**2011 Interim Statements**").

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 2011 Interim Statements:

    a) an order issued by the Alberta Securities Commission on October 31, 2012;

b) an order issued by the British Columbia Securities Commission on December 6, 2011; and

c) an order issued by the Québec L'Autorité des Marchés Financiers on December 19, 2011,

(collectively, the "**Other Cease Trade Orders**").

7. The Applicant has filed all outstanding continuous disclosure documents that are required to be filed under securities law. Specifically, the Applicant has filed the following documents on SEDAR on July 11, 2014:

a) audited financial statements for the fiscal year ended May 30, 2012 together with the related management discussion and analysis, and CEO and CFO certificates;

b) audited financial statements for the fiscal year ended May 30, 2013 together with the related management discussion and analysis, and CEO and CFO certificates;

c) interim financial statements for the three-month period ended August 31, 2012 together with the related management discussion and analysis, and CEO and CFO certificates;

d) interim financial statements for the six-month period ended November 30, 2012 together with the related management discussion and analysis, and CEO and CFO certificates;

e) interim financial statements for the nine-month period ended February 28, 2013 together with the related management discussion and analysis, and CEO and CFO certificates;

f) interim financial statements for the three-month period ended August 31, 2013 together with the related management discussion and analysis, and CEO and CFO certificates;

g) interim financial statements for the six-month period ended November 30, 2013 together with the related management discussion and analysis, and CEO and CFO certificates;

h) amended interim financial statements for the nine-month period ended February 28, 2014 together with the related management discussion and analysis, and CEO and CFO certificates.

8. The Applicant (i) is up-to-date with all of its continuous disclosure obligations; (ii) is not in default of any of its obligations under the Ontario 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 the existence of the Ontario Cease Trade Order.

9. The Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid.

10. The Applicant's SEDAR profile and SEDI issuer profile supplement are current and accurate.

11. The Applicant intends to hold an annual meeting of shareholders within 90 days of the revocation of the Ontario Cease Trade Order.

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

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 Ontario Cease Trade Order;

IT IS ORDERED pursuant to section 144 of the Act that the Ontario Cease Trade Order is revoked.

DATED at Toronto, Ontario on this 5th day of August, 2014.

"Shannon O'Hearn"
Manager, Corporate Finance
Ontario Securities Commission

2.2.6 Access Holdings Management Company LLC and Tuckamore Capital Management Inc.

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

AND

IN THE MATTER OF
ACCESS HOLDINGS MANAGEMENT COMPANY LLC
and TUCKAMORE CAPITAL MANAGEMENT INC.

ORDER

WHEREAS on August 1, 2014, the Ontario Securities Commission (the "Commission") held a hearing (the "Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider an application filed by Access Holdings Management Company LLC ("Access") dated July 31, 2014 (the "Interim Application") for a temporary cease trade order in respect of the issuance of securities of Tuckamore Capital Management Inc. ("Tuckamore") pursuant to the proposed private placement referred to below;

AND WHEREAS on August 1, 2014, the Commission held a Hearing to consider the Interim Application and heard submissions from counsel for Access, counsel for Tuckamore and counsel for Staff of the Commission ("Staff");

AND WHEREAS on July 18, 2014, the Toronto Stock Exchange ("TSX") conditionally approved the listing of approximately 16,666,667 common shares of Tuckamore to Orange Capital Master I, Ltd. ("Orange Capital") in a private placement transaction (the "Private Placement");

AND WHEREAS on July 28, 2014, Access requested that the TSX exercise its discretion pursuant to sections 603 and 604 of the TSX Company Manual to require shareholder approval of the Private Placement;

AND WHEREAS the Commission was informed at the Hearing that, on August 1, 2014, the TSX considered the submissions of Access and Tuckamore and approved the Private Placement without requiring shareholder approval (the "TSX Decision");

AND WHEREAS Access intends to forthwith commence an application for a hearing and review of the TSX Decision to the Commission pursuant to sections 21.7 and 8 of the Act and intends to seek a Commission order pursuant to section 127 of the Act that the Private Placement be permanently cease traded unless shareholder approval is obtained (the "Application";

AND WHEREAS at the Hearing the Commission heard submissions of counsel for Access, counsel for Tuckamore and counsel for Staff of the Commission ("Staff");

AND WHEREAS Tuckamore provided orally the following undertakings to the Commission at the Hearing:

1. prior to any final decision of the Commission on the Application, Orange Capital shall not transfer, vote or otherwise deal with the common shares issued under the Private Placement unless it provides at least 24-hour prior written notice to Staff;

2. in the event that the Application is successful, upon the request of the Commission:

   (a) Tuckamore shall rescind the Private Placement forthwith and return to Orange Capital any consideration paid under the Private Placement;

   (b) Tuckamore shall cancel the common shares issued under the Private Placement;

   (c) Tuckamore will not permit the common shares issued under the Private Placement to be voted at any Tuckamore shareholders' meeting held after the date of the TSX Decision; and

3. Tuckamore will offer to enter into with Access an agreement on substantially the terms set forth in Exhibit "G" to the Interim Application;

AND WHEREAS Tuckamore represented to the Commission that it has the legal ability to comply with the foregoing undertakings and that it had the ability to obtain Orange Capital's agreement to comply with the foregoing undertakings;

AND WHEREAS the Commission considers that it is in the public interest to accept the foregoing undertakings and to issue this Order;

IT IS HEREBY ORDERED THAT:

1. The Interim Application is dismissed;

2. Tuckamore, Access, Staff or any person directly affected by this Order, may apply to the Commission for directions as to the interpretation and application of the undertakings referred to in this Order or any other matter related to this Order.

DATED at Toronto this 1st day of August, 2014.

"James E. A. Turner"

2.2.7 Portfolio Capital Inc. et al.

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON and AMY HANNA-ROGERSON

ORDER

WHEREAS on March 25, 2013, 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 connection with a Statement of Allegations filed by Staff of the Commission ("**Staff**") on March 25, 2013 with respect to Portfolio Capital Inc. ("**Portfolio Capital**"), David Rogerson ("**Rogerson**") and Amy Hanna-Rogerson ("**Hanna-Rogerson**") (collectively, the "**Respondents**");

AND WHEREAS the Notice of Hearing set a hearing in this matter for April 17, 2013;

AND WHEREAS on April 17, 2013, Staff and counsel to Rogerson appeared before the Commission and no one appeared on behalf of Hanna-Rogerson or Portfolio Capital;

AND WHEREAS on April 17, 2013, the Commission ordered that a pre-hearing conference take place on May 27, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS on May 27, 2013, the Commission ordered that a pre-hearing conference take place on June 24, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, the parties agreed that at the pre-hearing conference scheduled for June 24, 2013 at 9:00 a.m., the parties would be prepared to set the following dates:

(a) a date in September 2013 for a pre-hearing conference, by which time the Respondents and Staff will have provided witness lists and disclosure to the other parties;

(b) a date in October 2013 for a further pre-hearing conference to prepare for the hearing on the merits; and

(c) dates in November 2013 for the hearing on the merits;

AND WHEREAS on June 4, 2013, Staff filed an Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on June 24, 2013, Staff appeared and made submissions and counsel to Rogerson appeared and made submissions on behalf of his client and on behalf of counsel to Hanna-Rogerson and Portfolio Capital;

AND WHEREAS on June 24, 2013, the Commission ordered that:

(a) Staff shall provide any additional disclosure to the Respondents by July 12, 2013;

(b) Staff shall provide its witness list and hearing briefs to the Respondents by September 12, 2013;

(c) the Respondents shall provide their witness lists and hearing briefs to Staff by September 25, 2013;

(d) the hearing be adjourned to a further pre-hearing conference to be held on September 27, 2013 at 10:00 a.m. to prepare for the hearing on the merits; and

(e) the hearing on the merits in this matter shall commence on November 4, 2013 at 10:00 a.m. and shall continue on November 6, 7, 8 and 11, 2013;

AND WHEREAS on June 26, 2013, Staff filed an Amended Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on September 27, 2013, Staff appeared and made submissions and counsel to Rogerson and Portfolio Capital appeared and made submissions on behalf of his clients and on behalf of counsel to Hanna-Rogerson;

AND WHEREAS on September 27, 2013, the Commission ordered that the hearing be adjourned to a further pre-hearing conference to be held on October 9, 2013 at 2:00 p.m.;

AND WHEREAS on October 9, 2013, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS on October 9, 2013, the Commission ordered that:

(a) the hearing dates of November 4, 6, 7 and 8, 2013 be vacated;

(b) the hearing on the merits in this matter shall commence on November 11, 2013 at 10:00 a.m. and shall continue on November 13, 14 and 15, 2013;

(c) the hearing be adjourned to a further pre-hearing conference to be held on October 17, 2013 at 2:00 p.m.;

(d) the motion brought by counsel to Rogerson and Portfolio Capital to adjourn the commencement date of November 11, 2013 for the hearing on the merits (the "**Motion**") would be heard immediately following the pre-hearing conference scheduled for October 17, 2013; and

(e) the Respondents shall be granted one last indulgence and shall provide their hearing briefs, will-say statements and witness list to Staff by October 29, 2013;

AND WHEREAS counsel to Rogerson and Portfolio Capital filed a Notice of Motion, dated October 15, 2013, and Staff filed the Affidavit of Stephanie Collins, sworn October 16, 2013, in relation to the Motion;

AND WHEREAS on October 17, 2013, Staff and counsel to the Respondents appeared and made submissions for a pre-hearing conference;

AND WHEREAS on October 17, 2013, following the pre-hearing conference, the Commission held a hearing with respect to the Motion, which Staff opposed and counsel to Hanna-Rogerson supported;

AND WHEREAS the Commission considered the factors to grant an adjournment set out in Rule 9.2 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071, along with the motion materials and submissions of the parties, and ordered that:

(a) the hearing on the merits scheduled to commence on November 11, 2013 will commence on February 10, 2014 and shall continue on February 12, 13, 14 and 18, 2014; and

(b) the hearing be adjourned to a further pre-hearing conference to be held on December 18, 2013 at 10:00 a.m.;

AND WHEREAS the Respondents failed to provide their hearing briefs, will-say statements and witness list to Staff by October 29, 2013, as ordered by the Commission on October 9, 2013;

AND WHEREAS on November 29, 2013, Staff and counsel to Rogerson, who also appeared as a representative for Hanna-Rogerson and Portfolio Capital, appeared and made submissions before the Commission at a confidential pre-hearing conference;

AND WHEREAS the Panel informed the parties that any documents that the Respondents wish to rely on at the hearing on the merits must be submitted by January 3, 2014, and that the Respondents would be precluded from submitting any further documents for the hearing on the merits after that date;

AND WHEREAS on November 29, 2013, the Commission ordered that:

(a) the Respondents shall provide their hearing briefs, will-say statements and witness list to Staff by 4:30 p.m. on January 3, 2014;

(b) the pre-hearing conference scheduled for December 18, 2013 at 10:00 a.m. be vacated; and

(c) the hearing be adjourned to a further pre-hearing conference to be held on January 10, 2014 at 10:00 a.m.;

AND WHEREAS on January 3, 2014, the Respondents served their hearing brief on Staff (the "**Respondents' Hearing Brief**");

AND WHEREAS on January 10, 2014, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS Staff and counsel to the Respondents consented to submit an agreed statement of facts by January 17, 2014, and the parties agreed that Staff would provide the Respondents with the particulars of its allegations in relation to subsection 126.1(b) of the Act by January 29, 2014;

AND WHEREAS on January 10, 2014, the Commission ordered that:

(a) an agreed statement of facts shall be submitted by the parties in this matter by January 17, 2014, and, in the event that an agreed statement of facts was not reached, the parties will communicate with the Registrar of the Office of the Secretary to schedule a further appearance in this matter; and

(b) Staff shall provide to the Respondents the particulars of its allegations in relation to subsection 126.1(b) of the Act by January 29, 2014;

AND WHEREAS Staff and the Respondents entered into an agreed statement of facts;

AND WHEREAS on January 28, 2014, the Commission received notice that the Respondents discharged their counsel and that the Respondents elected to act in person in respect of this matter;

AND WHEREAS on January 29, 2014, Staff served and filed the particulars of its allegations of securities fraud made against the Respondents;

AND WHEREAS the hearing on the merits commenced on February 10, 2014 and continued on February 12, 13, and 14, 2014;

AND WHEREAS on February 14, 2014, the Commission ordered that:

(a) the hearing date of February 18, 2014 be vacated;

(b) Staff shall serve and file its written closing submissions by March 14, 2014;

(c) the Respondents shall serve and file any written closing submissions by March 28, 2014; and

(d) if the Respondents serve and file written closing submissions, the hearing on the merits shall continue for the purpose of hearing oral closing submissions on a date and time to be set by the Office of the Secretary;

AND WHEREAS on March 13, 2014, Staff served and filed its written closing submissions;

AND WHEREAS on March 28, 2014, the Respondents served and filed their written closing submissions and attached several documents that they wished to rely on at the hearing on the merits (the "**March 2014 Documents**");

AND WHEREAS on April 14, 2014, Rogerson requested that he be permitted to introduce documentary and oral evidence before the Panel at the hearing on the merits (the "**Evidence Motion**");

AND WHEREAS on April 22, 2014, the Commission informed the parties that a hearing would be held on May 1, 2014 at 10:00 a.m. for the sole purpose of hearing the Respondents' Evidence Motion and any other matters related to the completion of the hearing on the merits;

AND WHEREAS on April 29, 2014, Staff served and filed a Memorandum of Fact and Law, a Brief of Authorities and the Affidavit of Julia Ho, sworn April 23, 2014;

AND WHEREAS on May 1, 2014, Rogerson served and filed responding materials, including copies of certain documents that he wished to introduce, which included all or substantially all of the documents included in the Respondents' Hearing Brief, several of the March 2014 Documents and certain additional documents (the "**Additional Documents**");

AND WHEREAS on May 1, 2014, Staff attended in person, Rogerson and Hanna-Rogerson attended by telephone conference and the parties made submissions with respect to the Evidence Motion;

AND WHEREAS on May 14, 2014, the Commission ordered that, in order to make a determination on the Evidence Motion, a further appearance would be held at 10:00 a.m. on May 29, 2014 to discuss the conduct of the hearing, including the use, if any, of videoconferencing;

AND WHEREAS on May 29, 2014, Staff attended in person, and Rogerson and Hanna-Rogerson attended by telephone conference;

AND WHEREAS the Respondents identified three witnesses located in British Columbia, including Rogerson and Hanna-Rogerson, whose evidence they wish to introduce at the hearing on the merits (the "**British Columbia Witnesses**");

AND WHEREAS the Respondents identified a fourth potential witness located in Alberta (the "**Alberta Witness**"), whose availability to participate in the hearing on the merits was unknown as of the May 29, 2014 hearing;

AND WHEREAS the Commission directed the Respondents to notify the Office of the Secretary of the Alberta Witness's availability to participate in the hearing on the merits by June 5, 2014 so that testimony by video link from Alberta could be facilitated;

AND WHEREAS the Respondents did not provide confirmation that the Alberta Witness was available to participate in the hearing on the merits;

AND WHEREAS on June, 6, 2014, the Commission ordered that the hearing on the merits would continue on June 24 and 25, 2014, beginning at 1:00 p.m. both days, on which dates the Respondents would be permitted to introduce evidence, as follows;

(a) the three British Columbia Witnesses would be permitted to testify by video link from Vancouver, British Columbia, as arranged by the Office of the Secretary;

(b) the Alberta Witness would be permitted to testify by video link from Vancouver, British Columbia, as arranged by the Office of the Secretary, or to testify at the offices of the Commission in Toronto; and

(c) the Respondents may introduce documentary evidence from the March 2014 Documents and the Additional Documents;

AND WHEREAS the hearing on the merits continued on June 24 and 25, 2014, with Staff attending in person, Rogerson and Hanna-Rogerson attending by video conference and the British Columbia Witnesses testifying by video conference;

AND WHEREAS the Alberta Witness did not appear before the Commission or testify at the hearing on the merits;

AND WHEREAS on June 25, 2014, the Commission ordered that:

(a) Staff shall serve and file its supplementary or restated written closing submissions by 5:00 p.m. E.D.T. on July 24, 2014;

(b) the Respondents shall serve and file any supplementary or restated written closing submissions by 5:00 p.m. E.D.T. on August 7, 2014; and

(c) Staff shall serve and file any reply written closing submissions, if necessary, by 5:00 p.m. E.D.T. on August 28, 2014;

AND WHEREAS on July 24, 2014, Staff filed its Merits Hearing Fresh Closing Submissions and a Book of Authorities;

AND WHEREAS on August 6, 2014, Rogerson requested an extension of time to submit his supplementary or restated written closing submissions to August 18, 2014, and Staff did not object to the request, provided that any reply written closing submissions by Staff be correspondingly extended to September 5, 2014;

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 Respondents shall serve and file any supplementary or restated written closing submissions by 5:00 p.m. E.D.T. on August 18, 2014, and Staff shall serve and file any reply written closing submissions, if necessary, by 5:00 p.m. E.D.T. on September 5, 2014.

DATED at Toronto this 7th day of August, 2014.

"Christopher Portner"

2.2.8 Tuckamore Capital Management Inc.

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

AND

IN THE MATTER OF
TUCKAMORE CAPITAL MANAGEMENT INC.

AND

IN THE MATTER OF
A DECISION OF THE TORONTO STOCK EXCHANGE

DISCLOSURE AND OTHER ORDERS

WHEREAS on August 5, 2014, Access Holdings Management Company LLC ("Access") filed an application (the "Application") with the Ontario Securities Commission (the "Commission") for a hearing and review of a decision of the Toronto Stock Exchange (the "TSX") on August 1, 2014 in which the TSX approved a private placement of common shares of Tuckamore Capital Management Inc. ("Tuckamore") to Orange Capital Master I, Ltd. ("Orange") (the "Private Placement") without requiring shareholder approval (the "TSX Decision");

AND WHEREAS in the Application, Access requests the following relief:

1. An order pursuant to sections 8(3) and 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") setting aside the TSX Decision;

2. An order pursuant to section 8(3) of the Act requiring Tuckamore to call and hold a meeting of its shareholders in order to obtain shareholder approval of the Private Placement;

3. Further or in the alternative, an order pursuant to section 127(1)2 of the Act to cease trade the Private Placement unless and until Tuckamore obtains a simple majority of the votes cast by Tuckamore shareholders entitled to vote at a duly convened meeting of its shareholders in favour of the Private Placement; and

4. Such further and other relief as counsel may advise and the Commission may deem just;

AND WHEREAS on August 7, 2014, a hearing was held to consider the following preliminary motions in connection with the Application:

1. A motion brought by Access for an order requiring the disclosure of certain categories of documents by Tuckamore and Orange;

2. A motion brought by Orange for standing on the Application;

3. A motion brought by the Special Committee of the Board of Directors of Tuckamore (the "Special Committee") for standing on the Application;

4. A motion brought by Tuckamore for a determination that Access ought not to be able to bring an application under section 127 of the Act to challenge the TSX Decision (the "Section 127 Motion"); and

5. A request from Tuckamore that the Commission make an order pursuant to Rule 5.2 of the Commission's *Rules of Procedure* that certain of Tuckamore's productions be kept confidential (the "Confidentiality Request");

AND WHEREAS, at the hearing on August 7, 2014, on consent of the parties, the Commission granted Torstar standing in this matter to Orange and the Special Committee;

AND WHEREAS, at the hearing on August 7, 2014, it was agreed that the Commission's consideration of the Confidentiality Request would be deferred to the hearing of the Application;

AND WHEREAS the Commission has reserved its decision with respect to the Section 127 Motion;

AND WHEREAS the Commission has not yet received or had an opportunity to review the reasons of the TSX with respect to the TSX Decision or the record upon which that decision was based;

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

IT IS ORDERED that:

1. Tuckamore shall disclose to Access and the other parties to this proceeding forthwith, and in any event no later than the close of business on August 13, 2014:

   (a) any and all written submissions and written communications made by or on behalf of Tuckamore and/or the Special Committee to the TSX related to the Private Placement;

   (b) any and all agreements, arrangements or understandings between Tuckamore and Orange, or their respective affiliates, related to the issue, purchase or voting of common shares of Tuckamore;

   (c) any and all agreements, arrangements or understandings between Tuckamore and Newport Private Wealth Inc. ("Newport"), or their respective affiliates, related to the issue, purchase or voting of common shares of Tuckamore;

   (d) minutes of all meetings of the Tuckamore board of directors from January 15, 2014 to date, together with all materials relevant to the Application submitted to the board in connection with those meetings; and

   (e) a copy of the mandate or mandates of the Special Committee and all minutes of meetings of the Special Committee, together with all materials submitted to the Special Committee in connection with those meetings;

2. Orange shall disclose to Access and the other parties to this proceeding forthwith, and in any event no later than the close of business on August 13, 2014, any and all agreements, arrangements or understandings between Orange and Newport related to the issue, purchase or voting of common shares of Tuckamore;

3. This Order shall not require the disclosure of matters that are the subject of solicitor-client privilege;

4. The issue of this Order is without prejudice to the discretion of the Commission to order further or other disclosure;

5. The hearing to consider the Application shall commence on August 18, 2014 at 11:30 a.m. and shall continue, if necessary, on August 19, 2014;

6. The parties shall file all materials on which they wish to rely at the hearing of the Application by 2:00 p.m. on August 15, 2014; and

7. Any party shall be entitled to apply to the Commission for guidance as to the interpretation or application of this Order.

DATED at Toronto this 8th day of August, 2014.

"James E. A. Turner"

2.2.9 Ground Wealth Inc. et al.

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

AND

IN THE MATTER OF
GROUND WEALTH INC., MICHELLE DUNK, ADRION SMITH, JOEL WEBSTER, DOUGLAS DeBOER, ARMADILLO ENERGY INC., ARMADILLO ENERGY, INC., and ARMADILLO ENERGY, LLC (aka ARMADILLO ENERGY LLC)

ORDER

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary order on July 27, 2011 (the "Temporary Order") pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, all trading in the securities of Armadillo Energy Inc. ("the Armadillo Securities") shall cease;

2. Pursuant to paragraph 2 of subsection 127(1) of the Act, Armadillo Energy Inc. ("Armadillo Texas"), Ground Wealth Inc. ("GWI"), Paul Schuett ("Schuett"), Doug DeBoer ("DeBoer"), James Linde ("Linde"), Susan Lawson ("Lawson"), Michelle Dunk ("Dunk"), Adrion Smith ("Smith"), Bianca Soto ("Soto") and Terry Reichert ("Reichert") (collectively, the "Respondents to the Temporary Order") shall cease trading in all securities; and

3. 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 on August 11, 2011, the Commission held a hearing to consider whether it was in the public interest to extend the Temporary Order, and heard submissions from Staff of the Commission ("Staff") and counsel to the Respondents to the Temporary Order;

AND WHEREAS on August 11, 2011, the Commission extended the Temporary Order to February 13, 2012 (the "Amended Temporary Order") on the same terms and conditions as provided for in the Temporary Order; provided that the Temporary Order shall not prevent a Respondent from trading for the Respondent's own account, solely through a registered dealer or a registered dealer in a foreign jurisdiction (which dealer must be given a copy of the Amended Temporary Order), in (a) any "exchange traded security" or "foreign exchange traded security" within the meaning of National Instrument 21-101, provided the Respondent does not own beneficially or exercise control or direction over more than 5 per cent of the voting or equity securities of the issuer of any such securities, or (b) any security issued by a mutual fund that is a reporting issuer; and provided the Respondent provides Staff with the particulars of the accounts in which such trading is to occur before any trading in such accounts occurs;

AND WHEREAS on February 8, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the Amended Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and heard submissions from Staff and from counsel to the Respondents to the Temporary Order;

AND WHEREAS on February 8, 2012, the Commission extended the Amended Temporary Order to August 8, 2012 (the "February 2012 Temporary Order") on the following terms:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, all trading in the Armadillo Securities shall cease;

2. Pursuant to paragraph 2 of subsection 127(1) of the Act, the Respondents to the Temporary Order shall cease trading in Armadillo Securities and/or in securities of a nature similar to Armadillo Securities, which are securities evidencing an interest in the production of barrels of oil still in the ground; and

3. This Order shall not prevent Staff from applying to the Commission for a variation of this Order if Staff considers that doing so was in the public interest;

AND WHEREAS on August 2, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and heard submissions from Staff and from counsel to the Respondents to the Temporary Order;

AND WHEREAS on August 2, 2012, the Commission extended the February 2012 Temporary Order until February 4, 2013, and ordered that the matter return before the Commission on February 1, 2013;

AND WHEREAS on February 1, 2013, the Commission held a hearing to consider whether it was in the public interest to further extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act;

AND WHEREAS on February 1, 2013, Staff appeared, made submissions and requested that the February 2012 Temporary Order be extended against GWI, Armadillo Texas, DeBoer, Dunk and Smith only;

AND WHEREAS on February 1, 2013 Staff advised that they would be initiating proceedings in this matter under section 127 of the Act shortly and would not be naming Schuett, Linde, Lawson, Soto or Reichert as respondents;

AND WHEREAS on February 1, 2013, counsel to the Respondents to the Temporary Order did not appear, but email correspondence setting out his position and advising that he did not oppose the extension of the February 2012 Temporary Order to March 6, 2013 was filed by Staff;

AND WHEREAS on February 1, 2013, the Commission extended the February 2012 Temporary Order to March 6, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith and ordered that a further hearing be held before the Commission on March 5, 2013 (the "February 2013 Temporary Order");

AND WHEREAS on February 1, 2013, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act, in relation to a Statement of Allegations filed by Staff on February 1, 2013 (the "Statement of Allegations") naming as respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith, as well as Joel Webster ("Webster"), Armadillo Energy, Inc., a Nevada company ("Armadillo Nevada") and Armadillo Energy LLC, an Oklahoma company ("Armadillo Oklahoma") (collectively, the "Respondents");

AND WHEREAS on March 5, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS on March 5, 2013, Staff appeared, made submissions and advised that Smith, GWI, Dunk and Armadillo Nevada had been successfully served with the Notice of Hearing and the Statement of Allegations, but that Staff required additional time to serve the Notice of Hearing and the Statement of Allegations on Webster, DeBoer, Armadillo Texas and Armadillo Oklahoma;

AND WHEREAS on March 5, 2013, counsel to GWI and Dunk appeared, made submissions and did not oppose the extension of the February 2013 Temporary Order; Smith appeared personally but made no submissions; and Webster, DeBoer, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS on March 5, 2013, the Commission continued the February 2013 Temporary Order to April 9, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith, and adjourned the proceeding in relation to the February 2013 Temporary Order to April 8, 2013;

AND WHEREAS on April 8, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS on April 8, 2013, Staff appeared, made submissions and filed the Affidavit of Stephen Carpenter, sworn March 27, 2013;

AND WHEREAS Staff also filed materials confirming that (a) GWI, Dunk, Smith, Webster, DeBoer, Armadillo Texas and Armadillo Nevada were served with the Notice of Hearing and the Statement of Allegations, and that Armadillo Oklahoma was an inactive company, and (b) disclosure was being prepared and that Staff estimated that eight weeks would be required to complete production of the electronic disclosure briefs;

AND WHEREAS on April 8, 2013, counsel to GWI, Dunk and DeBoer appeared, made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice, and also advised that he had been in contact with Smith and that Smith also did not oppose the further extension of the February 2013 Temporary Order;

AND WHEREAS counsel to GWI, Dunk and DeBoer also advised that his clients did not oppose an eight week adjournment of the proceeding in relation to the Notice of Hearing without prejudice, and that Smith also did not oppose the requested adjournment;

AND WHEREAS on April 8, 2013, Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS on April 8, 2013, Schuett, Linde, Lawson, Soto and Reichert were no longer respondents to the February 2013 Temporary Order and were not respondents to the proceeding initiated by the Notice of Hearing;

AND WHEREAS on April 8, 2013, the remaining respondents to the February 2013 Temporary Order, being GWI, Armadillo Texas, DeBoer, Dunk and Smith, were all respondents to the proceeding initiated by the Notice of Hearing;

AND WHEREAS on April 8, 2013, the Commission ordered that:

1. The February 2013 Temporary Order be extended to June 7, 2013, or until further order of the Commission, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

2. A further hearing in relation to the February 2013 Temporary Order be held on June 6, 2013;

3. The hearing in relation to the Notice of Hearing be adjourned to June 6, 2013; and

4. Any further notices or orders in this matter would proceed under a single style of cause of the proceeding initiated by the February 1, 2013 Notice of Hearing, being "IN THE MATTER OF GROUND WEALTH INC., MICHELLE DUNK, ADRION SMITH, JOEL WEBSTER, DOUGLAS DeBOER, ARMADILLO ENERGY INC., ARMADILLO ENERGY, INC. and ARMADILLO ENERGY LLC.";

AND WHEREAS on June 6, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS Staff appeared, made submissions and filed the Affidavit of Stephen Carpenter, sworn May 22, 2013, and advised that disclosure was prepared and available for delivery to all the Respondents, upon their signing of an undertaking in such terms suitable to protect the personal and private information contained in the disclosure brief;

AND WHEREAS at the hearings, Staff provided counsel to GWI, Dunk and DeBoer with three copies of the electronic disclosure brief;

AND WHEREAS counsel to GWI, Dunk and DeBoer made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS the Commission advised the parties that it expected to set the dates for a hearing on the merits at the next appearance on this matter;

AND WHEREAS on June 6, 2013, the Commission ordered that:

1. The hearing in relation to the Notice of Hearing be adjourned to a pre-hearing conference to be held on August 20, 2013 at 10:00 a.m.;

2. The hearing in relation to the February 2013 Temporary Order be adjourned to August 20, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order against the Respondents be extended to August 22, 2013;

AND WHEREAS on August 20, 2013, a confidential pre-hearing conference was held, followed by a public hearing to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act;

AND WHEREAS Staff appeared and made submissions and counsel to GWI, Dunk and DeBoer appeared, made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearings;

AND WHEREAS after hearing the submissions of Staff and counsel to GWI, Dunk and DeBoer, the Commission deferred setting the dates for a hearing on the merits and advised the parties that it expected to set such dates at the next appearance on this matter;

AND WHEREAS on August 20, 2013 the Commission ordered that:

1. The pre-hearing conference be adjourned and would continue on October 1, 2013 at 10:00 a.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order be adjourned and would continue on October 1, 2013, at 10:30 a.m.; and

3. The February 2013 Temporary Order be extended to October 3, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

AND WHEREAS on September 20, 2013, the Registrar of the Commission received a written request on behalf of counsel to GWI, Dunk and DeBoer, requesting an adjournment of the next appearances on this matter (the "Adjournment Request");

AND WHEREAS Staff and counsel to GWI, Dunk and DeBoer agreed that the next pre-hearing conference be rescheduled to October 11, 2013 and the February 2013 Temporary Order be extended to October 16, 2013;

AND WHEREAS Armadillo Texas, Armadillo Nevada and Smith were provided with an opportunity to object to the Adjournment Request and did not do so;

AND WHEREAS Staff submitted that Armadillo Oklahoma and Webster could not be served;

AND WHEREAS on September 30, 2013, the Commission ordered that:

1. The pre-hearing conference scheduled for October 1, 2013 at 10:00 a.m. be adjourned and would continue on October 11, 2013 at 10:00 a.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order scheduled for October 1, 2013 at 10:30 a.m. be adjourned and would continue on October 11, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order be extended to October 16, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

AND WHEREAS on October 11, 2013, a confidential pre-hearing conference was held, followed by a public hearing to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act;

AND WHEREAS Staff appeared and made submissions and counsel to GWI, Dunk and DeBoer appeared, made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearings;

AND WHEREAS after hearing the submissions of Staff and counsel to GWI, Dunk and DeBoer, the Commission deferred setting the dates for a hearing on the merits and advised the parties that it expects to set such dates at the next appearance on this matter;

AND WHEREAS on October 11, 2013, the Commission ordered that:

1. The pre-hearing conference be adjourned and would continue on November 5, 2013, at 2:30 p.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order be adjourned and would continue on November 5, 2013, at 3:00 p.m.; and

3. The February 2013 Temporary Order be extended to November 8, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

AND WHEREAS on October 31, 2013, the Commission issued an Amended Notice of Hearing and Staff filed an Amended Statement of Allegations, which amended the title of this proceeding by replacing the name "Armadillo Energy LLC" with "Armadillo Energy, LLC (aka Armadillo Energy LLC)" (collectively, "Armadillo Oklahoma", as defined above);

AND WHEREAS on November 5, 2013, a confidential pre-hearing conference was held, followed by a public hearing to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act;

AND WHEREAS Staff appeared and made submissions and counsel to GWI, Dunk and DeBoer appeared, made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearings;

AND WHEREAS on November 5, 2013, the Commission ordered that:

1. The pre-hearing conference was adjourned to continue on January 15, 2014 at 10:00 a.m.;

2. A motion requested by Staff would be heard at a confidential hearing on February 6, 2014 at 10:00 a.m. ("Staff's Motion");

3. The hearing on the merits would commence on April 14, 2014 at 10:00 a.m. and continue until May 7, 2014, save and except for April 16, 17, 18 and 22 and May 6, 2014 (the "Merits Hearing"); and

4. The February 2013 Temporary Order was extended as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith, to two days following the conclusion of this proceeding, including the issuance of the Commission's decision on sanctions and costs should a sanctions hearing be required following the conclusion of the Merits Hearing in this matter;

AND WHEREAS on January 15, 2014, the Commission held a confidential pre-hearing conference, and Staff and counsel to GWI, Dunk and DeBoer appeared and made submissions;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearing;

AND WHEREAS Staff undertook to make its best efforts to serve on each party and file its motion materials, in connection with Staff's Motion, by January 22, 2014;

AND WHEREAS on January 15, 2014, the Commission ordered that the pre-hearing conference be adjourned and would continue on March 24, 2014 at 10:00 a.m.;

AND WHEREAS on January 21, 2014, at the request of Staff and counsel to GWI, Dunk and DeBoer, the Commission held a confidential pre-hearing conference;

AND WHEREAS Staff and counsel to GWI, Dunk and DeBoer appeared and made submissions, and Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS Staff requested that the scheduled date for Staff's Motion on February 6, 2014 be re-scheduled and counsel to GWI, Dunk and DeBoer consented;

AND WHEREAS, on January 21, 2014, the Commission ordered that the scheduled date for Staff's Motion on February 6, 2014 be vacated and the hearing for Staff's Motion would be held on March 4, 2014 at 10:00 a.m.

AND WHEREAS Staff's Motion did not proceed on March 4, 2014;

AND WHEREAS on March 20, 2014, Staff applied to convert the Merits Hearing from an oral hearing to a written hearing, pursuant to Rule 11 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the "*Rules of Procedure*");

AND WHEREAS on March 24, 2014, the Commission held a further confidential pre-hearing conference, and Staff and counsel to GWI, Dunk, DeBoer and Webster appeared and made submissions;

AND WHEREAS Smith, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearing;

AND WHEREAS on March 24, 2014, the Commission ordered that the pre-hearing conference be adjourned and would continue on March 28, 2014 at 9:45 a.m.;

AND WHEREAS on March 28, 2014, the Commission held a further confidential pre-hearing conference, and Staff and counsel to GWI, Dunk, DeBoer and Webster appeared and made submissions;

AND WHEREAS Smith, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearing;

AND WHEREAS on April 7, 2014, the Commission ordered that:

1. the Merits Hearing was converted to a hearing in writing, pursuant to Rule 11 of the *Rules of Procedure* and would proceed on the following schedule:

    a. Staff shall serve and file evidence briefs by May 2, 2014 at 4:00 p.m.;

    b. counsel to GWI, Dunk, DeBoer and Webster shall advise Staff by May 23, 2014 if he intends to examine any of his former clients in this matter;

    c. the Respondents shall serve and file evidence briefs by June 13, 2014 at 4:00 p.m.;

    d. Staff shall serve and file any evidence brief in reply by June 25, 2014 at 4:00 p.m.;

    e. Staff shall serve and file its written submissions by July 11, 2014 at 4:00 p.m.;

    f. the Respondents shall serve and file their written submissions by August 1, 2014 at 4:00 p.m.; and

    g. Staff shall serve and file any written submissions in reply by August 11, 2014 at 4:00 p.m.;

2. the Respondents shall have 10 days from the date of the Order to serve any notice of objection under Rule 11.7 of the *Rules of Procedure*; and

3. the dates scheduled for the oral Merits Hearing, being April 14, 15, 21, 23-25, 28-30 and May 1-2, 5 and 7, 2014, were vacated;

AND WHEREAS on April 28, 2014, Staff delivered correspondence to the Commission (the "April 2014 Letter") advising that on April 25, 2014, Staff received a substantial new volume of evidence that it was unable to review and analyze prior to the deadline of May 2, 2014 for the service and filing of Staff's evidence briefs;

AND WHEREAS Staff requested that the schedule set out in the Commission's Order dated April 7, 2014 for the Merits Hearing be amended to move each deadline to two weeks into the future;

AND WHEREAS Staff advised the Commission that counsel to GWI, Dunk, DeBoer and Webster stated that he had no objection to Staff's requested amendment to the schedule;

AND WHEREAS Staff advised the Commission that the April 2014 Letter was delivered to Armadillo Texas, Armadillo Nevada and Smith, and Staff did not receive a response from these respondents;

AND WHEREAS Staff submitted that Armadillo Oklahoma could not be served with the April 2014 Letter;

AND WHEREAS on April 30, 2014, the Commission ordered that:

1. the Merits Hearing shall proceed on the following schedule (the "April 30 Schedule"):

    a. Staff shall serve and file evidence briefs by May 16, 2014 at 4:00 p.m.;

    b. counsel to GWI, Dunk, DeBoer and Webster shall advise Staff by June 6, 2014 if he intends to examine any of his former clients in this matter;

    c. the Respondents shall serve and file evidence briefs by June 27, 2014 at 4:00 p.m.;

    d. Staff shall serve and file any evidence brief in reply by July 9, 2014 at 4:00 p.m.;

e. Staff shall serve and file its written submissions by July 25, 2014 at 4:00 p.m.;

f. the Respondents shall serve and file their written submissions by August 15, 2014 at 4:00 p.m.; and

g. Staff shall serve and file any written submissions in reply by August 25, 2014 at 4:00 p.m.;

AND WHEREAS on May 16, 2014, Staff filed the Affidavit of Stephen Carpenter sworn May 14, 2014, together with an index and six volumes of documents (collectively, the "Carpenter Affidavit"), and the Affidavit of Service of Tia Faerber sworn May 16, 2014;

AND WHEREAS on June 2, 2014, the Commission ordered that all further service of notice or proceeding documents in this matter on Armadillo Oklahoma be waived;

AND WHEREAS on June 26, 2014, counsel for Dunk, DeBoer, GWI and Webster filed the affidavits sworn June 25, 2014 by Dunk and DeBoer (respectively, the "Dunk Affidavit" and the "DeBoer Affidavit");

AND WHEREAS no other Respondent has filed any evidence on the written hearing;

AND WHEREAS Staff wrote to the Panel on July 3, 2014, and advised that both Staff and counsel for Dunk, DeBoer, GWI and Webster were of the view that the written materials filed by the parties raise evidentiary issues that cannot be addressed on the basis of the written record and may require scheduling *viva voce* evidence, and requested that the April 30 Schedule be suspended pending discussion of these issues;

AND WHEREAS on July 8, 2014, the Commission ordered that the parties shall appear for a status update hearing on July 16, 2014 at 2:00 p.m., and that the April 30 Schedule is suspended pending the status update on July 16, 2014;

AND WHEREAS on July 16, 2014, after hearing the submissions of Staff and counsel for Dunk, DeBoer, GWI and Webster, the Commission deferred scheduling *viva voce* evidence until such time as the Panel was available and advised the parties that it would provide dates in the near future;

AND WHEREAS the Office of the Secretary corresponded with Staff and counsel for Dunk, DeBoer, GWI and Webster about the dates that the Panel was available to hear *viva voce* evidence;

AND WHEREAS Armadillo Texas, Armadillo Nevada and Smith were provided with an opportunity to object to the proposed dates of the Panel in January and February, 2015 for *viva voce* evidence, and did not do so;

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

IT IS HEREBY ORDERED that *viva voce* evidence shall take place over 10 days commencing on January 26, 2015 and continuing on January 28 to 30, February 2 to 6 and February 9, 2015.

DATED at Toronto this 8th day of August, 2014.

"Christopher Portner"

2.2.10 Crown Hill Capital Corporation and Wayne Lawrence Pushka – 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
CROWN HILL CAPITAL CORPORATION and WAYNE LAWRENCE PUSHKA

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on July 7, 2011, a Notice of Hearing was issued by the Ontario Securities Commission (the "Commission") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Crown Hill Capital Corporation ("CHCC") and Wayne Lawrence Pushka ("Pushka") (collectively, the "Respondents");

AND WHEREAS a Statement of Allegations in this matter was issued by Staff on the same day;

AND WHEREAS the hearing on the merits of this matter took place over 14 hearing days from May 9, 2012 to September 18, 2012;

AND WHEREAS by decision and reasons dated August 23, 2013 (the "Merits Decision"), the Commission found that:

(a) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act in making certain amendments to the MACCs Declaration of Trust;

(b) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) making certain changes to the rights of CHDF unitholders by means of the merger of CHDF with MACCs; and (ii) failing to appropriately address the conflicts of interest arising in connection with that merger;

(c) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) causing CHF to make the Fairway Loan; and (ii) causing CHF to enter into the Citadel Acquisition and by proposing the Reorganization;

(d) the June 09 Circular was materially misleading and failed to provide sufficient information to permit a reasonable CHF unitholder to make an informed judgment whether to vote to approve the Reorganization, contrary to Ontario securities law;

(e) the indirect acquisition by CHF of the rights to the Citadel Management Agreements was contrary to and breached Section 5.2(1) of the CHF Declaration of Trust; accordingly, by causing CHF to enter into the Citadel Acquisition, CHCC acted contrary to and breached its fiduciary duty to CHF, contrary to subsection 116(a) of the Act;

(f) during the relevant time, CHCC failed to have written policies and procedures to address matters such as the Fairway Loan and the Reorganization, contrary to section 2.2 of National Instrument 81-107;

(g) during the relevant time, Pushka was, among his various roles, President and Chief Executive Officer and a director of CHCC and he authorized, permitted or acquiesced in all of the actions, decisions and transactions made or approved by CHCC that were the subject matter of this proceeding; as a result, where the Commission concluded that CHCC did not comply with Ontario securities law, Pushka was deemed pursuant to section 129.2 of the Act to also have not complied with such law; and

(h) by reason of the findings in clauses (a) to (g) above, the Commission also found that each of CHCC and Pushka acted contrary to the public interest;

AND WHEREAS on February 24 and 28, 2014, a hearing was held before the Commission to consider pursuant to sections 127 and 127.1 of the Act whether it was in the public interest to make an order imposing sanctions on, and the payment of costs of the investigation and hearing by, the Respondents;

AND WHEREAS in coming to its conclusions on sanctions, the Commission considered the submissions of the parties, the evidence submitted and the other factors and circumstances that the Commission considered relevant as discussed in its reasons for decision on sanctions and costs dated the date of this Order;

AND WHEREAS the capitalized terms used in this Order, other than terms expressly defined in this Order, are used as defined in the Merits Decision;

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) pursuant to paragraph 2 of subsection 127(1) of the Act, each of CHCC and Pushka cease trading in any securities or derivatives until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, each of CHCC and Pushka be prohibited from acquiring any securities until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions in Ontario securities law not apply to CHCC and Pushka until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, Pushka be reprimanded;

(e) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Pushka resign any positions he holds as an officer or director of any reporting issuer, registrant or investment fund manager;

(f) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Pushka be prohibited from becoming a director or officer of any reporting issuer, registrant or investment fund manager for a period of ten years from the date of this Order, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid under this Order;

(g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, each of CHCC and Pushka be prohibited from becoming or acting as a registrant, an investment fund manager or a promoter for a period of ten years from the date of this Order, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid pursuant to this Order;

(h) pursuant to paragraph 9 of subsection 127(1) of the Act, CHCC and Pushka jointly and severally pay to the Commission an administrative penalty of $1,875,000;

(i) pursuant to paragraph 10 of subsection 127(1) of the Act, CHCC and Pushka jointly and severally disgorge to the Commission amounts obtained by them as a result of their non-compliance with Ontario securities law of $18,237,047;

(j) pursuant to subsection 127.1(1) and (2) of the Act, CHCC and Pushka jointly and severally pay $300,000 of the costs incurred by the Commission in connection with the investigation and hearing of this matter; and

(k) the amounts referred to in paragraphs (h) and (i) above of this Order shall be designated for allocation or use by the Commission pursuant to subsection 3.4(2)(b)(i) and (ii) of the Act.

DATED at Toronto this 8th day of August, 2014.

“James E. A. Turner”

“Christopher Portner”

“Judith N. Robertson”

2.2.11 Pro-Financial Asset Management Inc.

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

WHEREAS on May 17, 2013, 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:

(i) 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 be suspended and the following terms and conditions apply to the registration of PFAM as an adviser in the category of portfolio manager ("PM") and to its operation as an investment fund manager ("IFM"):

a. PFAM's activities as a PM and IFM shall be applied exclusively to the Managed Accounts (as defined in the Temporary Order) and to the Pro-Hedge Funds and Pro-Index Funds (as defined in the Temporary Order); and

b. PFAM shall not accept any new clients or open any new client accounts of any kind in respect of the Managed Accounts;

(ii) 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 on May 28, 2013, the Commission ordered: (i) the Temporary Order be 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 proceed on June 26, 2013 at 10:00 a.m.;

AND WHEREAS on June 26, 2013, the Commission ordered that: (i) the Temporary Order be extended to July 15, 2013; and (ii) 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 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 "First PFAM Motion") that the hearing be held *in camera* and that the affidavits of Michael Denyszyn sworn May 24 and 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 First PFAM Motion and counsel for PFAM and Staff made oral submissions and filed written submissions;

AND WHEREAS on July 22, 2013, the Commission ordered:

(i) the Temporary Order be extended to August 26, 2013;

(ii) leave be granted to the parties to file written submissions in respect of the First PFAM Motion;

(iii) the Staff Affidavits, the transcript of the PFAM motion, the PFAM Materials, written submissions filed by Staff and PFAM and other documents presented during the course of the First PFAM Motion shall be treated as confidential documents until further direction or order of the Commission; and

(iv) the hearing be adjourned to August 23, 2013 at 10:00 a.m.;

AND WHEREAS on August 23, 2013, Staff filed with the Commission the affidavit of Michael Ho sworn August 22, 2013 and PFAM's counsel filed the affidavit of Stuart McKinnon dated August 23, 2013 but the parties did not seek to mark these affidavits as exhibits;

AND WHEREAS on August 23, 2013, Staff and counsel for PFAM advised the Commission that the parties had agreed on the terms of a draft order;

AND WHEREAS on August 23, 2013, PFAM requested that the hearing be held *in camera* so PFAM's submissions on certain confidentiality issues could be heard and Staff did not oppose PFAM's request;

AND WHEREAS on August 27, 2013, the Commission ordered:

(i) the Temporary Order be extended to October 11, 2013;

(ii) the affidavit of Michael Ho sworn August 22, 2013 and the affidavit of Stuart McKinnon sworn August 23, 2013 be treated as confidential documents until further order of the Commission;

(iii) PFAM will deliver to Staff the final principal protected note ("PPN") reconciliation report by 4:30 p.m. on September 30, 2013; and

(iv) the hearing to consider whether to: (i) make any further order as to PFAM's registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM's ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, proceed on October 9, 2013 at 11:00 a.m.;

AND WHEREAS on October 9, 2013, PFAM brought a second motion (the "Second PFAM Motion") for an order that the hearing be held *in camera* and for a confidentiality order treating as confidential documents: (i) the Staff and PFAM affidavits; (ii) all facta and correspondence exchanged by Staff and PFAM; and (iii) any transcript of this and prior *in camera* proceedings;

AND WHEREAS on October 9, 2013, PFAM's counsel filed written submissions dated October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013 and the affidavit of Kenneth White sworn October 7, 2013 in support of the Second PFAM Motion and Staff filed written submissions dated October 9, 2013 and the affidavit of Michael Ho sworn October 8, 2013 and opposed the request for an *in camera* hearing and for the confidentiality order;

AND WHEREAS on October 9, 2013, the Commission heard submissions from counsel on the Second PFAM Motion *in camera* and the Commission requested the parties to prepare a draft order that, among other matters, addressed the confidentiality of documents filed with the Commission and permitted BNP Paribas Canada and Société Générale Canada (the "Banks") to review certain documents attached to Staff affidavits dealing substantively with the PPN reconciliation process, provided the Banks treated such documents as confidential;

AND WHEREAS on October 11, 2013, the Commission ordered that:

(i) the Temporary Order be extended to December 15, 2013;

(ii) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission; and

(iii) the hearing to consider whether to: (i) make any further order as to PFAM's registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM's ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, shall proceed on December 12, 2013 at 10:00 a.m.;

AND WHEREAS on October 17, 2013, the Commission ordered (the "October 17, 2013 Order") that:

(i) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission;

(ii) the previous orders as to confidentiality made by the Commission on July 22, 2013 and August 27, 2013 remain in force until further order or direction of the Commission; and

(iii) documents related to the PPN reconciliation process listed on Schedule "A" to the October 17, 2013 Order be provided to counsel for the Banks on condition that the Banks treat those documents as confidential documents and not provide copies to any third party without further direction or order of the Commission;

AND WHEREAS on September 30, 2013, PFAM agreed to sell to another portfolio manager (the "Purchaser") PFAM's interest in all of the investment management contracts for the Pro-Index Funds and the Managed Accounts (the "First Transaction"). In a second transaction, an investor agreed to purchase through a corporation (the "Investor") all of the shares of the Purchaser (the "Second Transaction"):

AND WHEREAS on October 22, 2013, the Purchaser and PFAM filed a notification letter providing Compliance and Registrant Regulation Branch ("CRR Branch") Staff with notice ("Notice") of the application filed under section 11.9 and 11.10 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") relating to the First Transaction and the Second Transaction (collectively, the "Transactions");

AND WHEREAS on November 5, 2013, the staff member of the CRR Branch conducting the review of the Notice requested copies of the affidavits of Michael Denyszyn sworn May 24 and June 24, 2013, the affidavits of Michael Ho sworn July 17, August 22 and October 8, 2013, the affidavits of Stuart McKinnon sworn July 17, August 23 and October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the submissions of Staff and Pro-Financial Asset Management Inc. ("PFAM") (collectively, the "Confidential Documents");

AND WHEREAS on November 12, 2013, PFAM filed an application with the Investment Funds Branch ("IF Branch") of the Commission for an order under section 5.5 of National Instrument 81-102 – *Mutual Funds* ("NI 81-102") for approval of the Purchaser as investment fund manager of the Pro-Index Funds and the Purchaser applied on October 24, 2013 for registration in the investment fund manager category for this purpose;

AND WHEREAS on November 13, 2013, Staff filed a Notice of Motion returnable on a date to be determined by the Secretary's office seeking an Order that Staff of the Enforcement Branch be permitted to provide some or all of the Confidential Documents to certain staff members of the CRR Branch and the IF Branch;

AND WHEREAS on November 25, 2013, the Commission ordered that:

(i) Staff of the Enforcement Branch be permitted to provide the Confidential Documents to the following persons:

a. the staff members of the CRR Branch assigned to review the Notice;

b. the staff member who has been designated to act in the capacity of the Director on behalf of the CRR Branch for the purposes of deciding whether to object to the Notice;

c. the staff members of the IF Branch who have been assigned to review the application made by PFAM or the Purchaser under section 5.5 of NI 81-102; and

d. the staff member who has been designated to act in the capacity of the "Director" for the purposes of deciding whether to approve the application under section 5.5 of NI 81-102;

(ii) The CRR staff members assigned to review the Notice be permitted to provide relevant information derived from the Confidential Documents ("Relevant Information") to PFAM, the Purchaser and their counsel involved in the Notice as part of the CRR staff members' review and analysis of the Notice on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;

(iii) The IF staff members assigned to review the application for change of fund manager be permitted to provide Relevant Information to PFAM, the Purchaser and their counsel involved in the application filed under NI 81-102 as part of the Investment Funds staff members' review and analysis of the application on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;

(iv) The CRR staff members assigned to review the Notice be permitted to provide Relevant Information to the Investor or its counsel with the consent of PFAM; and

(v) The parties may seek direction from the Commission in the event that the CRR staff members and PFAM cannot agree on whether Relevant Information should be provided to the Investor or its counsel;

AND WHEREAS Staff has filed an affidavit of Michael Ho sworn December 10, 2013 attaching a letter from counsel to Investment Administration Solution Inc. ("IAS"), PFAM's recordkeeper for the PPNs, requesting a copy of the PPN reconciliation report submitted by PFAM to Staff;

AND WHEREAS PFAM's counsel provided to Staff and to the Commission and made submissions based on an affidavit of Stuart McKinnon sworn December 11, 2013 which was not marked as an exhibit on December 12, 2013 at the Commission hearing held that day;

AND WHEREAS on December 12, 2013, Staff and counsel for PFAM appeared before the Commission and made submissions on: (i) the appropriate form of order to govern the provision of the Confidential Documents to other members of Staff of the Commission; and (ii) whether IAS should receive copies of the PPN reconciliation reports submitted by PFAM to Staff;

AND WHEREAS by Commission Order dated December 13, 2013, the Commission ordered that:

(i) the Confidential Documents may be provided to any member of Staff of the Commission, as necessary in the course of their duties;

(ii) the Temporary Order be extended to January 24, 2014;

(iii) the hearing be adjourned to January 21, 2014 at 11:00 a.m.; and

(iv) Staff shall be entitled to provide a copy of each document relating to the PPN reconciliation process listed on Schedule "A" of the October 13, 2013 order to counsel for IAS on the conditions that: (a) IAS treat those documents as confidential and not provide them to any third party without further direction or order of the Commission; and (b) IAS may use the documents for the purpose of assisting Staff in resolving the PPN discrepancy, and for no other purpose;

AND WHEREAS on January 15, 2014, PFAM's counsel advised Staff that the prospectus for the distribution of securities of the Pro- Index Funds had passed its lapse date on January 14, 2014 and PFAM's counsel requested a lapse date extension of 40 days from Staff;

AND WHEREAS on January 17, 2014, PFAM's counsel filed a pre-hearing conference memorandum ("PFAM's Pre-Hearing Memorandum") with the Secretary's office to discuss various issues and seek an Order granting an extension to the lapse date for the Pro-Index Funds under subsection 62(5) of the Act (the "Lapse Date Relief");

AND WHEREAS PFAM filed the affidavit of Stuart McKinnon sworn January 19, 2014 with the Secretary's office and Staff filed the affidavit of Susan Thomas sworn January 20, 2014 with the Secretary's office but neither party marked either affidavit as an exhibit at the appearance on January 21, 2014;

AND WHEREAS on January 21, 2014, Staff and PFAM's counsel appeared before the Commission and Staff advised the Commission that: (i) Staff's review of the Notice was expected to take another three to four weeks; (ii) the parties agreed that the prior confidentiality orders should be revised to permit Staff to provide the Confidential Documents or excerpts therefrom to the Purchaser, the Investor and their counsel as Staff determines necessary in the course of their duties and on the condition that the recipients treat such documents as confidential and not disclose them to any third party without further direction or order of the Commission; and (iii) the parties agreed that the Temporary Order should be extended;

AND WHEREAS on January 21, 2014, PFAM's counsel requested that submissions relating to the issues raised in PFAM's Pre-Hearing Memorandum be made *in camera* pursuant to Rule 6 of the Commission's *Rules of Procedure*, Staff opposed PFAM's request, and the Commission directed and the parties made submissions *in camera* on the Lapse Date Relief;

AND WHEREAS on January 21, 2014, the Commission ordered that: (i) the Temporary Order be extended to February 24, 2014; (ii) the hearing be adjourned to February 21, 2014 at 2:00 p.m.; (iii) Staff who have received the Confidential Documents be permitted to provide the Confidential Documents or an excerpt of the Confidential Documents to the Purchaser, the Investor and their counsel as set out in the Order; and (iv) PFAM be granted the Lapse Date Relief under subsection 62(5) of the Act to extend the lapse date for the Pro-Index Funds to February 24, 2014 on the conditions set out in the Order;

AND WHEREAS on February 14, 2014, PFAM's counsel served on Staff and filed a pre-hearing conference memorandum with the Secretary's office and requested a confidential pre-hearing conference during the week of February 24, 2014;

AND WHEREAS on February 21, 2014, PFAM's counsel was unavailable to attend before the Commission so the Commission ordered: (i) the Temporary Order be extended to March 6, 2014; (ii) the hearing be adjourned to March 3, 2014 at 11:00 a.m.; and (iii) a confidential pre-hearing conference proceed on February 25, 2014 at 3:30 p.m.;

AND WHEREAS PFAM's counsel requested in his prehearing conference memorandum an extension to the lapse date for the Pro-Index Funds which was previously extended to February 24, 2014 by Commission order dated January 21, 2014 (the "Further Lapse Date Relief");

AND WHEREAS in connection with a confidential pre-hearing conference on February 25, 2014 and the appearance on March 3, 2014, Staff filed the affidavit of Michael Ho sworn February 24, 2014 and written submissions dated February 28, 2014 to oppose the request for the Further Lapse Date Relief and PFAM's counsel filed the affidavits of Stuart McKinnon sworn February 21, 2014 and March 3, 2014 and a factum dated March 3, 2014 in support of the Further Lapse Date Relief;

AND WHEREAS on March 3, 2014, counsel for PFAM requested that submissions relating to the Further Lapse Date Relief be heard *in camera* and the Commission agreed to this request and the parties made oral submissions *in camera* on the issue of whether the Commission should grant the Further Lapse Date Relief;

AND WHEREAS on March 3, 2014, the Commission ordered that the Further Lapse Date Relief would be granted until April 7, 2014 subject to: (i) PFAM issuing a news release, in a form satisfactory to Staff, to ensure that investors receive full disclosure of the matters identified by Staff as set out below; and (ii) PFAM only being permitted to distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds;

AND WHEREAS on March 3, 2014, the Commission advised, in the public portion of the hearing, that there had been two Director decisions recently made affecting PFAM (the "Director Decisions") and PFAM's counsel advised that the affected parties would seek a hearing and review under subsection 8(2) of the Act of both of the Director Decisions on an expedited basis;

AND WHEREAS on March 4, 2014, the Commission ordered: (i) the terms and conditions imposed on PFAM's registration by the Temporary Order be deleted and replaced with new terms and conditions which provided that PFAM shall not accept any new clients or open any new client accounts of any kind in respect of its Managed Accounts and that PFAM may only distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds (the "Distribution Restriction"); (ii) PFAM be granted the Further Lapse Date Relief under subsection 62(5) of the Act to extend the lapse date for the Pro-Index Funds to April 7, 2014 subject to the conditions that: (a) PFAM issue a news release by March 6, 2014, in a form satisfactory to Staff, providing disclosure about the specific items set out in the March 4, 2014 order; and (b) PFAM comply with the terms of the March 4, 2014 order; (iii) the hearing be adjourned to April 7, 2014 at 10:00 a.m.; and (iv) the Temporary Order be extended to April 10, 2014;

AND WHEREAS on March 6, 2014, a confidential prehearing conference was held to consider a motion by counsel to the Purchaser and the Investor to vary the Distribution Restriction imposed by the Commission in the March 4, 2014 order, so that PFAM could continue distributing securities until April 7, 2014 to new investors after issuing the press release provided for in the March 4 order (the "Variation Motion");

AND WHEREAS on March 6, 2014, the Commission was of the view that the hearing of the Variation Motion should proceed only after a notice of the Variation Motion has been filed with the Secretary's office so that the public could be advised of the hearing;

AND WHEREAS on March 6, 2014, the Commission ordered that: (i) portions of the Commission decision of March 3, 2014 imposing the Distribution Restriction and deleting and replacing the terms and conditions on PFAM's registration and operation be stayed until March 11, 2014; (ii) PFAM be granted lapse date relief to extend the lapse date for the Pro-Index Funds to March 11, 2014; (iii) the Purchaser and the Investor file notice of the Variation Motion with the Secretary's office; and (iv) the Variation Motion be adjourned to March 11, 2014 at 1:00 p.m.;

AND WHEREAS the Purchaser and Investor's counsel filed the affidavit of Diego Beltran sworn March 5, 2014, the affidavit of Stuart McKinnon sworn March 11, 2014 and written submissions dated March 6, 2014 in support of the Variation Motion and Staff filed the affidavit of Michael Ho sworn March 10, 2014 and written submissions dated March 10, 2014 to oppose the Variation Motion;

AND WHEREAS on March 11, 2014, the Purchaser and the Investor's counsel made a request that the hearing of the Variation Motion proceed *in camera* and Staff opposed the request and the Purchaser and Investor's counsel and Staff made oral submissions and the Commission denied the request that the hearing proceed *in camera*;

AND WHEREAS on March 11, 2014, Staff opposed the Variation Motion and the Purchaser and Investor's counsel and Staff made oral submissions on the Variation Motion and Staff advised that a separate order will be required to cease the distribution of securities of the Pro-Index Funds to new investors as of March 11, 2014 if the Variation Motion is dismissed;

AND WHEREAS on March 11, 2014, the Commission ordered that: (i) the Variation Motion be dismissed; and (ii) the distribution of securities of the Pro-Index Funds to new investors be ceased as of the end of the day on March 11, 2014;

AND WHEREAS PFAM filed the affidavit of Stuart McKinnon sworn April 4, 2014 in support of its request for a further lapse date extension (the "Third Lapse Date Extension Request") and requested that the affidavit be treated on a confidential basis and Staff filed an affidavit of Mostafa Asadi sworn April 4, 2014 and opposed the Third Lapse Date Extension Request on the basis that PFAM has not filed the annual audited financial statements or the annual management reports of fund performance for the Pro-Index Funds which were due on March 31, 2014;

AND WHEREAS on April 7, 2014, PFAM's counsel requested that the submissions of the parties be heard *in camera* and Staff opposed the request and the Commission directed PFAM's counsel and Staff to make oral submissions *in camera*;

AND WHEREAS on April 7, 2014, Staff requested permission to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or its legal counsel prior to the argument of PFAM's Third Lapse Date Request and PFAM's counsel opposed Staff's request;

AND WHEREAS on April 7, 2014, the parties made submissions *in camera* and the Commission directed that the affidavit of Stuart McKinnon sworn April 4, 2014 shall not be received on a confidential basis and directed that the correspondence between Staff and PFAM's counsel be treated as confidential;

AND WHEREAS on April 7, 2014, the Commission ordered that: (i) the lapse date for the Pro-Index Funds be extended to April 21, 2014; (ii) the affidavit of Stuart McKinnon sworn April 4, 2014 shall appear on the public record except for exhibits containing the correspondence between Staff and PFAM's counsel, including enclosures; (iii) Staff shall be entitled to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or IAS' legal counsel subject to the conditions that IAS shall treat as confidential all correspondence between PFAM and Staff forming part of the affidavit and IAS shall only use the affidavit to assist Staff in the ongoing proceeding; (iv) the Temporary Order be extended to April 21, 2014; and (v) the hearing be adjourned to April 17, 2014 at 11:00 a.m. to argue the Third Lapse Date Extension Request.

AND WHEREAS on April 17, 2014, Staff filed the affidavit of Michael Ho sworn April 11, 2014 to oppose the Third Lapse Date Extension Request and PFAM filed the affidavit of Stuart McKinnon sworn April 16, 2014 in support of the Third Lapse Date Extension Request;

AND WHEREAS on April 17, 2014, PFAM's counsel requested that the submissions of the parties on the Third Lapse Date Extension Request be heard *in camera* and Staff opposed PFAM's request and the Commission directed that the parties' submissions on the Third Lapse Date Extension Request would not be heard *in camera*;

AND WHEREAS on April 17, 2014, PFAM's counsel made oral submissions and filed written submissions dated April 7 and 17, 2014 in support of the Third Lapse Date Extension Request and Staff made oral and filed written submissions dated April 14, 2014 to oppose PFAM's request and after hearing the parties' submissions, the Commission reserved its decision and adjourned the hearing to April 21, 2014 at 2:00 p.m.;

AND WHEREAS on April 21, 2014, the Commission dismissed the Third Lapse Date Extension Request and provided oral reasons for its decision;

AND WHEREAS on April 21, 2014, the Commission ordered that: (i) the Third Lapse Date Extension Request be dismissed without prejudice to PFAM bringing an application under section 144 to vary or revoke this order if the audited financial statements and management reports of fund performance for the Pro-Index Funds are filed with the Commission; (ii) notwithstanding that the lapse date for the Pro-Index Funds was previously extended to April 21, 2014, the distribution of securities of the Pro-Index Funds shall cease as of the end of the day on April 21, 2014; (iii) the Temporary Order be extended to May 27, 2014; and (iv) the hearing be adjourned to May 23, 2014 at 10:00 a.m.;

AND WHEREAS on May 23, 2014, Staff filed the affidavit of Michael Ho sworn May 22, 2014 to: (i) update the Commission on the payments by PFAM on March 31, April 7 and 8, 2014 of maturity proceeds for certain series of PPNs to an escrow agent as arranged by the Banks and agreed to by PFAM; and (ii) confirm that the current discrepancy between the records of the recordkeeper and the trustee remains unchanged and indicates that the total cash obligation to PPN noteholders exceeds the amount in the trustee's records by $1,222,549.45;

AND WHEREAS on May 23, 2014, the Commission ordered that: (i) the term and condition on PFAM's registration which stated that "PFAM may only distribute securities of the Pro-Index Funds to existing security holders of the Pro-Index

Funds" be deleted and replaced with "PFAM shall not distribute securities of the Pro-Index Funds"; (ii) a confidential pre-hearing conference be held on June 5, 2014 at 10:00 a.m.; (iii) the hearing be adjourned to July 2, 2014 at 10:00 a.m.; and (iv) the Temporary Order be extended to July 4, 2014;

AND WHEREAS the Secretary's office advised the parties that the Commission was not available on July 2, 2014 and the parties agreed to adjourn the hearing to July 9, 2014 at 10:00 a.m. and to extend the Temporary Order to July 11, 2014;

AND WHEREAS on June 11, 2014, the Commission ordered that: (i) a confidential pre-hearing conference in respect of the section 8 hearing and review of the Director Decisions be held on June 26, 2014 at 2:00 p.m.; (ii) the hearing be adjourned to July 9, 2014 at 10:00 a.m.; and (iii) the Temporary Order be extended to July 11, 2014;

AND WHEREAS on July 9, 2014, the Commission ordered that: (i) the hearing be adjourned to August 8, 2014 at 10:00 a.m.; and (ii) the Temporary Order as amended by previous Commission orders be extended to August 11, 2014;

AND WHEREAS on July 9 and 10, 2014, the Commission held a hearing and review under subsection 8(2) of the Act to consider the decision of the Director of the CRR Branch to object to the Transactions;

AND WHEREAS on July 16, 2014, the Commission approved the Transactions under subsections 11.9(5) and 11.10(6) of NI 31-103 subject to nine terms and conditions;

AND WHEREAS on August 8, 2014, Staff advised the Commission that Staff wished to file the affidavit of Michael Ho sworn August 7, 2014 as an exhibit and to include a recital in the Commission order setting out information received by Staff concerning the PPNs but that PFAM objected to the filing of the affidavit and to the recital and PFAM's counsel sought a short adjournment to allow counsel handling the PFAM matter to attend and make submissions on the issue;

AND WHEREAS on August 8, 2014, Staff and counsel for PFAM advised that the parties consent to the extension of the Temporary Order to August 29, 2014 and to the adjournment of the hearing to August 26, 2014 to hear submissions from the parties;

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 hearing is adjourned to August 26, 2014 at 10:00 a.m.

2. The Temporary Order as amended by previous Commission orders is extended to August 29, 2014.

DATED at Toronto this "8th" day of August, 2014

"James E. A. Turner"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Acasta Capital Inc. – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION FOR TERMS AND CONDITIONS
ON THE REGISTRATION OF ACASTA CAPITAL INC.

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
UNDER SECTION 31 OF THE SECURITIES ACT (ONTARIO)

Decision

1. For the reasons outlined below, my decision is to impose modified terms and conditions on Acasta Capital Inc. (Acasta) as provided below for a minimum period of six months.

Overview

2. Acasta is registered under the *Securities Act* (Ontario) (Act) in the category of exempt market dealer.

3. By letter dated June 13, 2014, Staff of the Ontario Securities Commission (OSC) advised Acasta that it was recommending to the Director that terms and conditions be imposed on Acasta for the late filing of its annual financial statements.

Process for requesting an opportunity to be heard

4. Under section 31 of the Act, if a registrant wants to oppose Staff's recommendation for terms and conditions, the registrant may request an opportunity to be heard (OTBH). By email dated June 16, 2014, Michael Leibrock, Chief Compliance Officer (CCO) requested an OTBH. My decision is based on the written submissions of Mark Skuce (Legal Counsel, Compliance and Registrant Regulation Branch) and Michael Leibrock on behalf of Acasta.

Submissions

5. The fiscal year-end for Acasta is December 31. Under section 12.12 (1)(a) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") requires that a registered dealer deliver its annual financial statements within 90 days of the firm's year-end. Acasta's annual financial statements were due no later than March 31, 2014. However, Acasta submitted the financial statements on April 24, 2014 which was past the deadline.

6. Staff submits that the filing of annual financial statements by registrants is a serious regulatory obligation placed on registrants and that financial statements are the principal tool enabling Staff to monitor a registrant's financial viability and capital position.

7. For these reasons, Staff regularly recommends the imposition of terms and conditions when registrants fail to file their annual financial statements on a timely basis. Only in rare and extenuating circumstances would Staff not recommend imposing terms and conditions on a registrant that filed its annual financial statements late.

8. Acasta submits that the reasons for failing to meet the filing deadline are:

   - they are a small office with resource constraints,
   - they have demanding travel commitments that are required to properly serve their growing client base; and
   - unexpected departure of their prior CCO in September, 2013.

9. Acasta further submits that the imposition of the terms and conditions for a minimum period of six months will be highly burdensome and costly for a small firm.

Decision and reasons

10. My decision is to impose modified terms and conditions on the registration of Acasta as follows:

- The firm shall deliver on a monthly basis, through the OSC's electronic filing portal (https://eforms.osc.gov.on.ca/e31-103/index.jsp), starting with the month ending August 31, 2014 the following information:
    - year-to-date unaudited financial statement including a balance sheet and income statement or statement of financial position and statement of comprehensive income, both prepared in accordance with accounting principles required by National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*; and
    - month-end calculation of excess working capital using Form 31-103F1 *Calculation of Excess Working Capital*;
    - no later than three weeks after each month-end.
- The firm will review its procedure for compliance with Ontario securities law and, no later than September 26, 2014, will deliver to the Compliance and Registrant Regulation Branch of the OSC addressed to the Attention of the "Financial Analyst", a report setting out:
    - A certification from its CCO to the effect that the firm has reviewed its system for on-going compliance with Ontario securities law and rectified the problem(s) that led to its failure to satisfy the filing requirement; and
    - Details of the specific measures that will be taken to ensure that the filing requirement will be satisfied at all times in the future.

11. The terms and conditions are modified from Staff's recommendation. I do not see the need for the registrant to provide reasons as to why the filing deadline was missed. Sufficient information has already been submitted as part of this OTBH.

12. It is the responsibility of the registrant to ensure compliance with Ontario securities law. In this instance the annual financial statements were signed by the auditor and approved by Acasta's Board of Directors on March 17, 2014 which should have been sufficient time for the financial statements to be filed with the OSC before the March 31st deadline.

13. Since the filing requirement of section 12.12 (1)(a) of NI 31-103 was not met and, in accordance with decided cases including *Re Trafalgar Associates Limited* (2013), 36 O.S.C.B. 1462; *Re Windstar Equities Limited* (2011), 34 O.S.C.B. 7292; *Re First Canadian Property Investments Limited* (2011), 34 O.S.C.B. 7038; *Re Hill Harris Hunt Capital Limited* (2011), 34 O.S.C.B. 6753 and *Re Fox Collins Securities Incorporated* (2011), 34 O.S.C.B. 6558, the terms and conditions are applied to the registration of Acasta.

14. Staff submitted, and I agree that the reasons put forward for missing the filing deadline do not constitute rare and extenuating circumstances. There are many registrants in Ontario that are considered small, due to the number of personnel, and focused on building their business who meet their regulatory filing obligations. A registrant is required to have sufficient resources in place to discharge their regulatory obligations regardless of the number of persons who are employed by the firm.

15. Finally, it is my view that the requirement to submit the financial statement information required by the terms and conditions is not burdensome and costly since the requested materials are required books and records of a registrant. This argument has been repeatedly rejected by the Director in a number of instances including *Re CR Advisors Corporation* (2008), 31 O.S.C.B. 6269.

"Debra Foubert" J.D.
Director
Compliance and Registrant Regulation Branch
Ontario Securities Commission

August 6, 2014

3.1.2 Paul Azeff et al. – ss. 5.2 and 9 of the OSC Rules of Procedure and s. 9 of the SPPA

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW, MITCHELL FINKELSTEIN,
HOWARD JEFFREY MILLER AND
MAN KIN CHENG (a.k.a. FRANCIS CHENG)

ORAL REASONS AND DECISION
(Rules 5.2 and 9 of the Commission's Rules of Procedure (2014), 37 O.S.C.B. 4168 and Section 9 of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22)

Hearing:	July 29 and 31, 2014		
Decision:	August 8, 2014		
Panel:	Alan J. Lenczner	–	Commissioner and Chair of the Panel
	Catherine E. Bateman	–	Commissioner
Appearances:	Donna E. Campbell Tamara Center	–	For Staff of the Commission
	Korin Bobrow	–	In Person
	Tyler Hodgson Melissa MacKewn Nicolas Businger	–	For Paul Azeff and Korin Bobrow
	Greg Temelini	–	For Man Kin Cheng (a.k.a. Francis Cheng)
	Gordon Capern Jeffrey Larry	–	For Mitchell Finkelstein
		–	No one appeared on behalf of Howard Jeffrey Miller

ORAL REASON AND DECISION

The following text has been prepared for the purposes of publication in the Ontario Securities Commission Bulletin and is based on excerpts from the transcript of the hearing. The excerpts have been edited and the text has been approved by the Panel for the purpose of providing a public record of the decision.

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") on July 29 and 31, 2014 (the "**Motion Hearing**"). This matter was initiated by a Notice of Hearing issued in connection with a Statement of Allegations filed by Staff of the Commission ("**Staff**") on September 22, 2010 with respect to Howard Jeffrey Miller ("**Miller**") and Man Kin Cheng (a.k.a. Francis Cheng) ("**Cheng**"). On November 11, 2010, the Commission issued an Amended Notice of Hearing, pursuant to sections 127(1) and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**), accompanied by an Amended Statement of Allegations of Staff which added the respondents Paul Azeff ("**Azeff**"), Korin Bobrow ("**Bobrow**") and Mitchell Finkelstein ("**Finkelstein**"). On April 18, 2011, Staff filed an Amended Amended Statement of Allegations (the "**Amended Amended Statement of Allegations**") against Miller, Cheng, Azeff, Bobrow and Finkelstein (together, the "**Respondents**").

[2] By Notice of Motion dated July 14, 2014, counsel for Azeff and Bobrow (together, the "**Moving Parties**") brought a motion (the "**Motion**") to adjourn the hearing on the merits in this matter, scheduled for September 18 to November 14, 2014 (the "**Merits Hearing**"). The essential grounds of the Motion were that:

1. the work product of an expert consultant, Kim Stewart ("**Stewart**") who was retained by the Moving Parties, has been lost through no fault of hers or of the Moving Parties and that that loss was only discovered in February, 2014; and

2. despite ongoing efforts to reach an agreement with a Third Party to provide certain documents to the Respondents, as ordered by the Commission on July 16, 2013, the Third Party has not produced information in its possession for all trades executed under the IA codes registered to Azeff and/or Bobrow between January 1, 2002 to December 31, 2009 in an electronic spreadsheet format.

[3] On July 18, 2014, Staff brought a cross-motion for an Order severing this matter against Finkelstein, but only in the event that the Moving Parties were successful in obtaining an adjournment of the Merits Hearing to dates outside the dates currently scheduled between September 18 to November 14, 2014 (save and except certain dates), and an Order preserving such dates to conduct the Merits Hearing against Finkelstein (the "**Cross-Motion**").

[4] On July 29, 2014, Staff, counsel for the Moving Parties (Tyler Hodgson, "**Hodgson**"), counsel for Finkelstein and counsel for Cheng appeared before the Commission for the Motion Hearing. Bobrow attended the hearing in person and nobody appeared on behalf of Miller. Staff and counsel made submissions on the Motion and Staff's Cross-Motion, and Stewart testified at the Motion Hearing.

[5] On July 29, 2014, Hodgson requested an *ex parte* hearing to show why Stewart's assistance is critical to the Moving Parties to cross-examine Staff's witnesses adequately. Staff raised concern that submissions during the *ex parte* portion of the hearing could be taken out of context, but Staff relied on the Panel's judgment and expertise in proceeding with an *ex parte* hearing. We agreed to continue the Motion Hearing on July 31, 2014 as an *ex parte* confidential hearing with Hodgson, which would be followed by a public hearing.

[6] The Motion Hearing continued on July 31, 2014 and began as an *ex parte* confidential hearing in which Stewart testified and counsel for the Moving Parties made submissions on the Motion. Following the *ex parte* portion of the hearing, Staff, Hodgson and counsel for Cheng appeared and made submissions. Counsel for Finkelstein appeared by telephone conference and also made submissions.

[7] A total of eight exhibits were filed at the Motion Hearing, and a total of eight separate exhibits were filed in the *ex parte* portion of the Motion Hearing. As requested by counsel for the Moving Parties, we ordered that the transcript and Exhibits 4 to 8 of the *ex parte* portion of the Merits Hearing will be permanently sealed by the Commission, and these documents will only be available to the Moving Parties.

[8] As previously mentioned in paragraphs 4 and 6 above, Stewart gave evidence before the Commission on July 29 and 31, 2014. In her testimony and in her affidavit sworn July 14, 2014, Stewart indicated that some 600 hours of work product that she had completed over a period of two years (December, 2010 to December, 2012) had been lost. She indicated that she began to recreate this work product in or about the month of March, 2014, and that as of the date of her affidavit, July 14, 2014, she had been able to recreate less than 50% of it. We are entirely satisfied that Stewart was not responsible, nor can be faulted, for the lost work product.

[9] Stewart indicated that it would take her approximately six to nine months to complete the work and retrieve all of her lost work product. She stated that the time required has been supported by significant changes to Staff's Amended Amended Statement of Allegations, which were provided in draft form as a document entitled "Fresh As Amended Statement of Allegations" to Hodgson on July 30, 2014 (the "**Draft Fresh As Amended Statement of Allegations**", Exhibit 3 of the *ex parte* hearing).

[10] It was not apparent to the Panel until July 31, 2014 that Stewart will not be giving testimonial evidence and will not be providing an expert report in relation to the Merits Hearing. The Panel has read paragraph five of the Memorandum of Fact and Law of the Moving Parties, which states that "[t]he denial of the adjournment would prejudice the [Moving Parties] by effectively denying them the benefit of expert testimony and the benefit of the Commission's production order." It is now very clear that any misconception has been cleared up that the role of Stewart is an advisory one to assist Hodgson in his preparation of their case and with his cross-examination of Staff's witnesses at the Merits Hearing.

[11] Stewart, from the résumé that is attached as part of the Supplementary Affidavit of Elizabeth Tessari sworn July 28, 2014 (Exhibit 8, Tab 2E), is clearly a person who is an expert in matters involving trading. She has worked in that capacity for various self-regulatory organizations for quite a number of years. There is no doubt that her expertise in that area of trading will be helpful to the Moving Parties.

[12] The allegations as set out in the Amended Amended Statement of Allegations, and we will now refer to the Draft Fresh As Amended Statement of Allegations, which represents the third amendment to Staff's Statement of Allegations dated

September 22, 2010, involve six discrete, independent events. We will only describe two of the events to give a flavour of what this case is about.

[13] The first event is the acquisition of Masonite International Corporation ("**Masonite**") by Kohlberg Kravis Roberts & Co., commonly known as "**KKR**". The allegation is that Finkelstein, a lawyer at Davies Ward Phillips & Vineberg LLP ("**Davies**") at the time in 2004, was acting on behalf of Masonite, the company to be acquired. The allegation is that on November 16, 2004, he met with management of Masonite and knew of their intention to sell to KKR. He is then alleged to have telephoned Azeff, who was employed by CIBC World Markets Inc. ("**CIBC**") at the time in Montreal, and advised Azeff of these facts. The allegation is that as a result, Azeff bought shares of Masonite between November 19 and December 6, 2004. The transaction was not publicly disclosed until December 22, 2014. Azeff, within weeks thereafter, is then alleged to have sold shares for a profit and within a few weeks of that came to Toronto and gave Finkelstein cash. A fuller description of that transaction is set out in the Draft Fresh As Amended Statement of Allegations at paragraphs 15, 20 and 21. The allegations made against Bobrow are found at paragraphs 26(a) and 27(a) in the Draft Fresh As Amended Statement of Allegations.

[14] The second event that we will briefly describe is the purchase by Barrick Gold Corporation ("**Barrick**") of Placer Dome Inc. in about a year later, October, 2005. There is a similar allegation that Finkelstein, although not the lawyer acting for Barrick on the transaction, accessed documents from a colleague at Davies, who was acting for Barrick, and thereafter provided that information of the potential purchase to Azeff, who then supplied that information to Bobrow. Once again, the allegation is that before the transaction was publicly disclosed, Azeff and Bobrow, and perhaps some of their clients, bought shares, sold them after the public announcement and gave Finkelstein some cash.

[15] There are four other such events. It appears to us that with respect to each of these separate, distinct transactions and events, the majority of the evidence has to be fact evidence. Staff indicated that it intends to call a number of fact witnesses who will speak to the events and will file telephone records and emails, from which Staff will want the Commission to draw inferences about the contacts that were made by the Respondents. Staff will also file trading records to show when trades were allegedly made by Azeff, Bobrow and on behalf of their clients, either in purchasing their shares in the first instance or selling the shares after public disclosure. It does not seem to us that there will be much controversy about the authenticity of a telephone record or a trade record. It will be for the Panel to determine what inferences may be drawn from the evidence presented by the parties.

[16] Staff has indicated that its hearing brief is 1,279 documents, and that is what essentially Staff relies on, together with its fact witnesses to prove its case. That, of course, does not preclude the Respondents from bringing forward additional documents that shed light on what Staff will be producing.

[17] This matter has had a long and intense history before the Commission. The Amended Notice of Hearing was issued on November 11, 2010. There were a number of motions, which are fully set out in the Orders of the Commission dated July 29, 2013 and July 3, 2014.

[18] In particular, we would like to note that on July 29, 2013, the Commission granted an adjournment on a motion brought by Bobrow vacating the scheduled hearing dates, but noted that at that time, a year ago, the "Respondents were made aware of the Commission's view that a further request for adjournment would be subject to strict scrutiny and the Commission likely would be reluctant to grant another adjournment of the [Merits Hearing]" (*Re Paul Azeff et al.* (2013), 36 O.S.C.B. 7766). While we say that, we do note that what occurred with the revelation in February, 2014 that the work product was lost was not in anybody's contemplation and is really an unexpected development.

[19] This matter has been outstanding now for almost four years and relates to events that took place beginning in 2004 to 2007. It is a mature matter that should be determined by an adjudicative hearing.

[20] If an adjournment were to be granted, there is no certainty as to when the Merits Hearing would be scheduled before September, 2015. Hodgson has a criminal matter that has been scheduled to proceed commencing in January, 2015 and continuing to June, 2015 (the "**Criminal Matter**"). Hodgson indicated that there was an application made pursuant to subsection 11(b) of the *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the "**Charter**"). He indicated that the application will be heard starting in November, 2014 and that, if the application is successful, then the Criminal Matter would not be going forward and he would be available to commence the Merits Hearing in January, 2015. He also indicated that even if the Charter application was dismissed, the parties had now agreed to dispense with a jury and, therefore, it was his expectation that the Criminal Matter starting in January, 2015, as scheduled by the Supreme Court of Nova Scotia, would be able to be completed by the end of April, 2015.

[21] Unfortunately, these are all matters that are uncertain and the common experience is that once trials start, one can never be sure that they will finish in the time that everyone expects. Realistically, if there were to be an adjournment, we would have to schedule the Merits Hearing for September, 2015.

[22] We were benefitted by an *ex parte* confidential hearing to which Staff did not object, wherein Hodgson adduced evidence from Stewart as to the nature of her work. We say we were benefitted because what that examination demonstrated

was that Stewart is truly an expert and has a good grasp of the events of this case and of its intricacies. It also demonstrated that Hodgson was able to lead her through some examples in a very efficient and direct manner.

[23] It appeared from that examination that Stewart has been able to review the six separate events, and although she would like more time and would like to be more thorough, it appeared to us that she has all the essentials available to her and can assist Hodgson fully in understanding what the weaknesses of Staff's case are.

[24] We are now faced with competing interests in this case. On the one hand, there must be procedural fairness to the Respondents. They have to have a proper opportunity to cross-examine the evidence adduced by Staff and to present fairly their own defence. In respect of presenting their own defence, there is no suggestion made that Azeff or Bobrow could not give evidence and/or call any witnesses if they wished to. The request for the adjournment really narrowed itself to whether or not proper cross-examination could be made of Staff's witnesses if Stewart has not completed the recreation of her work product by the time the Merits Hearing commences. We are of the view that most of Staff's witnesses will be fact witnesses and that Stewart's assistance will not be time-consuming with respect to those witnesses. It would certainly seem that with respect to trading records and the timing of telephone calls, her assistance to Hodgson will be necessary and helpful.

[25] The other factor to be considered is the need for a timely and efficient adjudicative process. As earlier stated in paragraph 19 above, this matter has been outstanding for four years. It relates to events that happened many years ago, and there is a need to complete the process for the benefit of not only of the public, but also for the benefit of the Respondents.

[26] In conclusion, we are of the view that Stewart is sufficiently prepared from what we have heard and seen in the *ex parte* portion of the Motion Hearing to deal with all of Staff's allegations on the six events. To the extent that she needs more time, the Merits Hearing is now not scheduled for another eight weeks, and we think that will give her ample time to continue with her investigation and to assist Hodgson. Any concerns raised by Hodgson regarding his ability to present his clients' defence fully and fairly during the course of the Merits Hearing can be raised at that time.

[27] Counsel has also raised the changes to Staff's Amended Amended Statement of Allegations in the Draft Fresh As Amended Statement of Allegations. We have gone through these changes. They do not change the substance of Staff's allegations made with respect to the six discrete events. There are changes to the alleged amounts of money obtained and the alleged number of trades that were made; that goes to the public interest allegation and can be sorted during the course of the Merits Hearing. The main thrust of the Merits Hearing is not the amount of the money obtained, but the fact of whether or not there was insider trading and/or tipping.

[28] For the reasons stated above, we are going to proceed with the Merits Hearing as scheduled. We indicated to the parties on July 29, 2014 that we are prepared to start the Merits Hearing on September 29, 2014, as opposed to September 18, 2014, which provides a further 11 days to counsel and the Respondents, provided that we can make up the time on December 8, 2014 and December 16 to 19, 2014. On August 6, 2014, Staff advised the Office of the Secretary through email that all the parties agreed to amend the dates for the Merits Hearing accordingly.

[29] Given this decision, the Cross-Motion brought by Staff does not need to be addressed. However, for the sake of clarity, as we indicated to the parties on July 29, 2014, we would not have granted severance in this matter, because all of Staff's allegations, as is now even clearer, are interrelated and must be dealt with at one hearing.

CONCLUSION

[30] For the reasons stated above, we dismiss the Motion, and accordingly need not address Staff's Cross-Motion. We also order that, on the consent of all parties, the dates for the hearing on the merits previous scheduled for September 18, 19, 22 and 24, 2014 are vacated, and additional dates for the hearing on the merits are added on December 8, 16, 17, 18 and 19, 2014.

DATED at Toronto this 8th day of August, 2014.

"Alan J. Lenczner"

"Catherine E. Bateman"

3.1.3 Crown Hill Capital Corporation and Wayne Lawrence Pushka

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

AND

IN THE MATTER OF
CROWN HILL CAPITAL CORPORATION and WAYNE LAWRENCE PUSHKA

REASONS FOR DECISION ON SANCTIONS AND COSTS

Hearing:	February 24 and 28, 2014		
Decision:	August 8, 2014		
Panel:	James E. A. Turner	–	Vice-Chair and Chair of the Panel
	Christopher Portner	–	Commissioner
	Judith N. Robertson	–	Commissioner
Appearances:	Anna Perschy Albert Pelletier	–	For Staff of the Commission
	Alistair Crawley Melissa MacKewn Clarke Tedesco	–	For Crown Hill Capital Corporation and Wayne Lawrence Pushka

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REASONS FOR DECISION ON SANCTIONS AND COSTS

I. INTRODUCTION

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") to consider pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") whether it is in the public interest to make an order with respect to sanctions and costs against Crown Hill Capital Corporation ("**CHCC**") and Wayne Lawrence Pushka ("**Pushka**") (collectively, the "**Respondents**").

[2] The hearing on the merits (the "**Merits Hearing**") was heard over 14 days from May 9, 2012 to September 18, 2012 and our decision on the merits and our reasons were issued on August 23, 2013 (the "**Merits Decision**").

[3] Following the release of the Merits Decision, we held a separate hearing on February 24 and 28, 2014 to consider submissions from Staff of the Commission ("**Staff**") and counsel for the Respondents regarding sanctions and costs.

[4] Capitalized terms that are not defined in these reasons are used as defined in the Merits Decision.

II. THE MERITS DECISION

[5] On July 7, 2011, the Commission issued a Notice of Hearing in this matter pursuant to sections 127 and 127.1 of the Act in connection with a Statement of Allegations issued by Staff on the same day.

[6] This proceeding related to alleged multiple breaches by CHCC of its fiduciary duty under section 116 of the Act in connection with the actions and transactions set out in the Merits Decision. Staff also alleged that (i) disclosure made by CHCC in a management proxy circular of the Crown Hill Fund (the "**CHF**") dated June 3, 2009 was materially misleading; (ii) CHCC caused CHF to enter into a transaction that breached its declaration of trust; (iii) CHCC failed to have written policies and procedures required by Ontario securities law to address conflict of interest matters; and (iv) Pushka, as President and Chief Executive Officer and a director of CHCC, authorized, permitted or acquiesced in the conduct of CHCC that breached the Act and in so doing is deemed pursuant to section 129.2 of the Act to have also not complied with the Act. Staff also alleged that the foregoing conduct of the Respondents was contrary to the public interest.

[7] The alleged misconduct spanned a period of over a year, from April 2008 to June 2009, and involved a number of different transactions involving or affecting the following investment funds and unitholders of those funds:

(a) MACCs Sustainable Yield Trust ("**MACCs**");

(b) Crown Hill Dividend Fund ("**CHDF**");

(c) CHF;

(d) Fairway Diversified Income and Growth Trust ("**Fairway Fund**"); and

(e) 13 investment funds known as the "**Citadel Funds**".

We note that MACCs and CHDF were merged on December 30, 2008 to form CHF and that the Fairway Fund was subsequently merged with CHF. CHCC was during the relevant time the investment fund manager ("**IFM**") for each of MACCs, CHDF and CHF. Five of the Citadel Funds were merged with CHF on December 2, 2009 and the continuing fund was renamed the Citadel Income Fund ("**CIF**") (see paragraph 28 below). References in these reasons to CHF after that date include CIF. CHCC subsequently became IFM for five of the remaining Citadel Funds and for the Energy Income Fund ("**EIF**") (see paragraphs 31 and 32 below). References in these reasons to CHCC include references to CHCC's affiliates.

[8] We issued reasons for our decision on the merits on August 23, 2013.

[9] We held in the Merits Decision that:

(a) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act in making the amendments to the MACCs Declaration of Trust referred to in paragraph 202 of the Merits Decision;

(b) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) making the changes to the rights of CHDF unitholders referred to in paragraph 275 of the Merits Decision by means of the merger of CHDF with MACCs; and (ii) failing to appropriately address the conflicts of interest arising in connection with that merger (see paragraph 284 of the Merits Decision);

(c) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) causing CHF to make the Fairway Loan (see paragraph 394 of the Merits Decision); and (ii) causing CHF to enter into the Citadel Acquisition and by proposing the Reorganization (see paragraph 568 of the Merits Decision);

(d) the June 09 Circular was materially misleading and failed to provide sufficient information to permit a reasonable CHF unitholder to make an informed judgment whether to vote to approve the Reorganization, contrary to Ontario securities law (see paragraph 575 of the Merits Decision);

(e) the indirect acquisition by CHF of the rights to the Citadel Management Agreements was contrary to and breached Section 5.2(1) of the CHF Declaration of Trust. Accordingly, by causing CHF to enter into the Citadel Acquisition, CHCC acted contrary to and breached its fiduciary duty to CHF, contrary to subsection 116(a) of the Act (see paragraph 587 of the Merits Decision);

(f) during the relevant time, CHCC failed to have written policies and procedures to address matters such as the Fairway Loan and the Reorganization, contrary to section 2.2 of National Instrument 81-107 (see paragraph 594 of the Merits Decision);

(g) during the relevant time, Pushka was, among his various roles, the President and Chief Executive Officer and a director of CHCC and he authorized, permitted or acquiesced in all of the actions, decisions and transactions made or approved by CHCC that were the subject matter of this proceeding. As a result, where we concluded that CHCC did not comply with Ontario securities law, Pushka was deemed pursuant to section 129.2 of the Act to also have not complied with such law (see paragraph 633 of the Merits Decision); and

(h) by reason of the findings in clauses (a) to (g) above, we found that each of CHCC and Pushka acted contrary to the public interest (see paragraph 639(h) of the Merits Decision).

[10] We relied upon the foregoing findings and conclusions in determining the appropriate sanctions and costs to impose on the Respondents in the circumstances.

III. CHRONOLOGY OF EVENTS SUBSEQUENT TO JUNE 9, 2009

[11] The relevant events for purposes of the Merits Decision occurred prior to June 9, 2009 and are reflected in that decision. We note in particular that the Citadel Acquisition occurred on June 3, 2009. For purposes of determining sanctions, however, a number of relevant events and transactions occurred subsequent to June 9, 2009. The following is a summary of those significant events and transactions. For purposes of these reasons, the relevant period is from June 9, 2009 to January, 2013 (the "**Relevant Period**").

[12] On July 10, 2009, the postponed CHF unitholder meeting scheduled for July 13, 2009 was cancelled in order to address concerns raised by Staff.

[13] On July 16, 2009, Brompton Administration Limited ("**Brompton**") and Bloom Investment Counsel, Inc. ("**Bloom**") announced that they were soliciting unitholders of the Citadel Funds to requisition special meetings of the Citadel Funds to replace CHCC with Brompton as IFM of those funds (the "**Blue Ribbon Proposal**").

[14] On July 20, 2009, CHCC announced that Jarislowsky, Fraser Limited had been appointed portfolio manager of CHF.

[15] On July 23, 2009, CHCC announced that unitholder meetings of CHF and the Citadel Funds would be held on September 30, 2009 to vote on the reorganization proposed by CHCC that included the merger of a number of the Citadel Funds with CHF (see paragraph 18 below).

[16] On August 6, 2009, the independent directors of CHCC and the members of the CHF independent review committee (the "**IRC**") met with Staff and discussed the possibility that the rights to the Citadel Management Agreements would be transferred by CHF to CHCC for consideration that included a cash payment and a promissory note to be issued by CHCC. That proposal was referred to as the "**Divestiture Plan**". Ultimately, that proposal became the Divestiture referred to in paragraph 30 below.

[17] On August 20, 2009, the IRC met and determined that "the terms of the Divestiture Plan that might constitute a conflict of interest could achieve a fair and reasonable result for the Fund's unitholders subject to any comments from the OSC, or any material adverse changes affecting the Fund, the Citadel Funds or the markets generally."

[18] On August 27, 2009, CHCC issued a CHF management proxy circular for a unitholder meeting to be held on September 30, 2009 (the "**September 2009 Meeting**") to approve (i) the mergers of certain of the Citadel Funds with CHF; (ii) the Divestiture (referred to in paragraph 30 below); (iii) the creation of the special redemption rights (referred to in paragraph 19 below); and (iv) other amendments to the CHF declaration of trust (such matters are referred to collectively as the "**Proposed Reorganization**") (see the discussion of this meeting commencing at paragraph 206 of these reasons).

[19] The Special Redemption Right was a right of redemption for unitholders of CHF, and for unitholders of the Citadel Funds that were proposed to be merged with CHF, exercisable at 97% of NAV in the case of CHF, and at similar redemption prices based on NAV for unitholders of the Citadel Funds (the "**Special Redemption Right**") (see paragraph 206 of these reasons). As a result of the Special Redemption Right, unitholders of CHF had the option of redeeming their units at 97% of NAV in connection with any such mergers and unitholders of the Citadel Funds to be merged with CHF had similar redemption rights.

[20] Also on August 27, 2009, CHCC issued a joint management proxy circular for unitholder meetings of the Citadel Funds to be held on September 30, 2009 to, among other matters, approve mergers with CHF and the Special Redemption Right. The circular contained disclosure similar to that in the CHF proxy circular referred to in paragraph 18 above.

[21] On September 9, 2009, Brompton and Bloom issued a dissident proxy circular soliciting unitholders of the Citadel Funds to vote against the Proposed Reorganization and to vote instead for the Blue Ribbon Proposal.

[22] At the September 2009 Meeting, the CHF resolution approving the Proposed Reorganization was passed by 97.4% of the units that were voted at the meeting. Unitholders of Equal Weight Plus Fund ("**EWP**") also approved the merger of that fund with CHF as proposed by CHCC. The results of the votes by unitholders of the remaining Citadel Funds at the unitholder meetings held on that day were "inconclusive" in that neither the Blue Ribbon Proposal nor CHCC's proposal referred to in paragraph 20 above was approved by the necessary votes.

[23] On October 13, 2009, CHCC reached an agreement with Brompton and Bloom, subject to unitholder approval, that Blue Ribbon Fund Management Ltd. ("**Blue Ribbon**") would be appointed IFM of Citadel Diversified Investment Trust ("**Diversified**") and Series S-I Income Fund ("**Series S-1**") and that those two funds would be merged to form the "**Blue Ribbon Fund**".

[24] On October 21, 2009, CHCC issued two proxy circulars for Citadel Fund unitholder meetings to be held on November 17, 2009; a joint management proxy circular for Diversified and Series S-I recommended that unitholders approve the Blue Ribbon Proposal, and the joint management proxy circular for the remaining Citadel Funds recommended that unitholders approve, among other matters, mergers with CHF. These circulars incorporated by reference the management proxy circular referred to in paragraph 18 above.

[25] At the November 17, 2009 unitholder meetings, unitholders of Diversified and Series S-I approved the Blue Ribbon Proposal by 95% of the units that were voted and 98% of the units that were voted, respectively. It was announced that the two funds would be merged to form the Blue Ribbon Fund on or about December 31, 2009.

[26] On the same day, unitholders of the remaining four Citadel Funds (other than the SMaRT Fund ("**SMaRT**")) approved, among other matters, mergers with CHF with the following votes: HYTES Fund ("**Hytes**") by 98.25% of the units that were voted;

Premium Income Fund ("**Premium**") by 95.33% of the units that were voted; S-I Income Trust Fund ("**S-1**") by 97% of the units that were voted; and Stable S-I Income Fund ("**Stable S-1**") by 93.95% of the units that were voted.

[27] On November 20, 2009, Diversified and Series S-1 appointed Blue Ribbon as IFM and merged to form the Blue Ribbon Fund.

[28] On December 2, 2009, Hytes, Premium, S-1, Stable S-1 and EWP merged with CHF. CHF was the continuing fund and was renamed CIF. Termination fees paid by those funds to CH Administration LP as a result of those mergers totalled $7,809.122.21.

[29] On December 3, 2009, redemptions pursuant to the Special Redemption Right granted to unitholders resulted in a 48.8% decrease in the assets of the merging funds referred to in paragraph 28 above.

[30] On December 18, 2009, CIF, indirectly through CH Administration LP, transferred to CHCC the rights to the Citadel Management Agreements based on the approval by CHF unitholders given at the September 2009 Meeting (see paragraph 22 above). The consideration for those rights was satisfied by a cash payment to CIF of $18,690,000 and the issuance of a promissory note by CHCC in the principal amount of $9,955,000 (the "**CHCC Note**"). That transaction is referred to in these reasons as the "**Divestiture**" (see paragraph 206 of these reasons). The primary source of the cash payment was $17,193,534 of termination or break fees paid by Diversified, Series S-1 and the other Citadel Funds referred to in paragraph 28 above (the aggregate of lines 13 and 14 of the Payments Summary).

[31] On December 22, 2009, CHCC obtained directly the management powers with respect to five of the six remaining Citadel Funds consisting of SMaRT, Energy Plus Income Fund ("**Energy Plus**"), Sustainable Production Energy Trust ("**Sustainable**"), Financial Preferred Securities Corporation ("**FPS Corp.**") and CGF Resources 2008 Flow-Through LP ("**CGF LP**").

[32] On August 30, 2010, a meeting of unitholders of Sustainable and a meeting of limited partners of CGF LP were held to approve the merger of those funds with Energy Plus to form the EIF. The merger was effective on October 8, 2010 (see paragraph 132(d)).

[33] On March 3, 2011, CHCC filed a preliminary short form prospectus for a CIF warrant offering. OSC Staff refused to issue a receipt for the preliminary prospectus.

[34] On July 7, 2011, the Notice of Hearing in this matter was issued together with Staff's Statement of Allegations.

[35] On August 4, 2011, following a hearing under subsection 8(2) of the Act, a Commission order was issued overturning the Director's decision to refuse a receipt for the preliminary prospectus referred to in paragraph 33 above.

[36] On September 23 and 26, 2011, CHCC filed short form prospectuses for warrant offerings by CIF and EIF, respectively (see paragraph 202 of these reasons).

[37] On October 7, 2011, the warrant offerings were completed. The net proceeds from the warrant offerings were $95,907,119 for CIF and $31,194,619 for EIF.

[38] On December 21, 2011, Artemis Investment Management Limited ("**Artemis**") gave notice to Staff of its proposed acquisition of all or a substantial part of the assets of CHCC. As a result of that acquisition, Artemis would become the IFM for CIF and EIF. Staff initially objected to the acquisition on January 18, 2012 but approved it almost one year later on January 14, 2013 (see paragraph 159 of these reasons).

[39] On March 23, 2012, SMaRT merged with EIF.

[40] The Merits Hearing took place from May 9, 2012 to September 18, 2012.

[41] On July 4, 2012, a CIF proxy circular (the "**CIF Circular**") was issued by CHCC for a special meeting of unitholders to be held on August 7, 2012 to approve what was described as the "Unitholder Empowerment Plan" that included changes to the CIF declaration of trust imposing a fee of 5% of NAV on the termination or resignation of CHCC as IFM and imposing on unitholders a redemption fee of 5% of NAV upon any redemption of units, both payable to CHCC (see paragraph 139 of these reasons).

[42] On the same day, an EIF management proxy circular was issued by CHCC for a special meeting of unitholders also to be held on August 7, 2012 to approve the "Unitholder Empowerment Plan" that included the same matters referred to in paragraph 41 above. The CIF unitholder meeting referred to in paragraph 41 above, together with the EIF unitholder meeting

held the same day, are referred to as the "**August 2012 Meetings**" and the Unitholder Empowerment Plan referred to in paragraph 41 and in this paragraph are referred to as the "**Unitholder Empowerment Plan**".

[43] On August 7, 2012, the CIF and EIF unitholders separately approved the Unitholder Empowerment Plan. The CIF resolution was approved by 94.20% of the units that were voted and the EIF resolution was approved by 89.62% of the units that were voted.

[44] On August 17, 2012, 21,330,664 CIF units were redeemed, and 6,081,669 EIF units were redeemed, pursuant to the special redemption rights approved at the August 2012 Meetings.

[45] On November 15, 2012, CHCC called CIF and EIF unitholder meetings to be held on December 18, 2012 to seek the approval of unitholders to appoint Artemis as IFM of both funds.

[46] On the same day, a facilitation agreement was entered into among 2223785 Ontario Inc., an affiliate of CHCC (referred to as "**Triple Two**" in these reasons), Artemis and Artemis Investment Management Corporation which provided for the payment of a facilitation fee of $3,735,609 (the "**Facilitation Fee**") by Artemis to Triple Two for causing CHCC to resign as IFM and trustee of CIF and EIF (see paragraphs 213 and 214 of these reasons).

[47] The resolution appointing Artemis as IFM was approved by CIF unitholders on December 18, 2012 by 91.35% of the units that were voted, and by EIF unitholders on January 2, 2013 (the postponed date of the meeting) by 92.86% of the units that were voted.

[48] On January 14, 2013, Staff approved the Artemis acquisition in connection with the appointment of Artemis as IFM of CIF and EIF.

[49] On January 15, 2013, CHCC resigned as IFM of CIF and EIF. CHCC received aggregate termination fees of $7,902,546 paid by CIF and EIF (the aggregate of lines 20 and 21 of the Payments Summary) and Triple Two was paid the Facilitation Fee of $3,735,609 (see paragraph 213 of these reasons and line 22 of the Payments Summary).

[50] The Respondents submit that we should avoid commenting on the appropriateness or effectiveness of events or transactions that occurred subsequent to June, 2009. We have, however, found it necessary to consider such events or transactions to the extent that they are relevant to our decisions with respect to sanctions. For instance, the Respondents have put in issue as mitigating considerations the various approvals given by CIF and EIF unitholders at the unitholder meetings referred to in these reasons that were held during the Relevant Period. If we are to take those approvals into account as relevant to sanctions, we must also consider the disclosure made to unitholders in obtaining those approvals. We are not, however, imposing sanctions on the Respondents based on or as a result of any such subsequent events or transactions.

IV. SANCTIONS AND COSTS REQUESTED BY STAFF

[51] Staff requests the following sanctions and costs orders against the Respondents:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading in any securities by the Respondents cease permanently;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by the Respondents be prohibited permanently;

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

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, that Pushka be reprimanded;

(e) pursuant to paragraph 8 of subsection 127(1) of the Act, that Pushka be prohibited permanently from becoming or acting as a director or officer of any issuer;

(f) pursuant to paragraph 8.1 of subsection 127(1) of the Act, that Pushka resign all positions that he holds as a director or officer of a registrant;

(g) pursuant to paragraph 8.2 of subsection 127(1) of the Act, that Pushka be prohibited permanently from becoming or acting as a director or officer of a registrant;

(h) pursuant to paragraph 8.3 of subsection 127(1) of the Act, that Pushka resign all positions that he holds as a director or officer of an investment fund manager;

(i) pursuant to paragraph 8.4 of subsection 127(1) of the Act, that Pushka be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;

(j) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that Pushka be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(k) pursuant to paragraph 9 of subsection 127(1) of the Act, that CHCC and Pushka pay, on a joint and several basis, administrative penalties in a minimum amount of $400,000 for each separate breach of section 116 of the Act, and a minimum amount of $100,000 for the breach of section 2.2 of National Instrument 81-107, for an aggregate minimum total administrative penalty of $2.1 million;

(l) pursuant to paragraph 10 of subsection 127(1) of the Act, that CHCC and Pushka disgorge to the Commission, on a joint and several basis, the amount of $23,952,833; and

(m) pursuant to section 127.1 of the Act, that the Respondents pay a portion of Staff's costs of the investigation and hearing in this matter in the amount of $467,648.70.

V. STAFF SUBMISSIONS

[52] Staff submits that breaches by an IFM of its fiduciary duties to the funds it manages is a very serious matter and that the misconduct of the Respondents in this matter warrants substantial sanctions. Staff submits that the Respondents' misconduct had a significant and negative impact on the efficiency, integrity and reputation of Ontario's capital markets.

[53] Staff submits that the misconduct in this matter as found by the Commission goes to the heart of the duty of loyalty inherent in an IFM's fiduciary duty.

[54] Staff submits that the unlawful conduct in this matter was prolonged and widespread. Both Respondents engaged in the conduct for more than a year. They breached their fiduciary obligations to MACCs, CHDF and CHF during that time. Their conduct involved the Fairway Fund and the thirteen Citadel Funds whose management rights were acquired by CHF. The Citadel Funds had over a billion dollars in assets under administration.

[55] Staff submits that the violations were far from isolated; the Respondents committed multiple separate breaches of the Act involving three general and distinct transactions; namely, changes made to the MACCs' Declaration of Trust, the Fairway Transaction and the Citadel Transaction. Those transactions occurred at different times and involved distinct steps affecting the different investment funds.

[56] Further, Staff submits that the violations built on each other and that many of the Respondents' violations of the Act were committed in order to make feasible or facilitate additional steps and did, in fact, make feasible or facilitate those additional steps. Those additional steps themselves involved further serious violations of Ontario securities law.

[57] Staff submits that the Respondents' ultimate goal was to increase the assets under management and CHCC's management fees so as to reap future financial benefits which would accrue over the long-term. CHCC did obtain very substantial long-term financial benefits as a result of the Respondents' misconduct. Staff submits that the financial benefits achieved reflect the combined consequences of the multiple prior violations of the Act.

[58] The Respondents' conduct included two instances in which the Commission concluded that they acted in bad faith for their own benefit including the exercise of their discretionary power to make amendments to the MACCs Declaration of Trust and the appointment of Robson Capital Management Inc. ("**Robson**") as portfolio manager of CHF.

[59] Staff submits that the Respondents' experience and Pushka's knowledge of CHCC's obligations as an IFM and his position as a registrant are significant aggravating factors in the circumstances and serve to underscore the fact that this matter involved planned and deliberate acts in breach of fiduciary obligations owed to funds and investors that were motivated by greed and that ultimately resulted in substantial harm to investors.

[60] Staff submits that there was ample evidence, as found by the Commission in the Merits Decision, of the Respondents' deliberate actions to mislead, conceal from or delay giving accurate and material information to, the funds and their unitholders or to hinder potential opposition, including:

(a) misleading MACCs when the Respondents sought and obtained discretionary amending power in connection with the approval of the merger strategy to purportedly reduce costs without disclosing their plan to make further amendments which adversely affected the rights of the unitholders;

(b) increasing the quorum required for unitholder meetings in the MACCs Declaration of Trust which then became the declaration of trust for CHF;

(c) not disclosing to CHDF any of the material changes to their rights that would result from the merger of CHDF with MACCs;

(d) failing to disclose how the Fairway Loan was to be addressed as part of the Reorganization;

(e) causing CHF to make the Citadel Acquisition before seeking unitholder approval for the Reorganization when the two transactions were directly linked, which gave unitholders "little practical choice but to approve the Reorganization" (see the Merits Decision at paragraph 532);

(f) making materially misleading disclosure in the June 09 Circular; and

(g) taking active steps to avoid unitholders of CHF having a redemption right at NAV by seeking to delist CHF from the Toronto Stock Exchange ("**TSX**").

[61] Further, Staff submits that in the course of breaching their fiduciary duty to the investment funds and their unitholders, Pushka also took deliberate steps to mislead the independent directors of CHCC and the members of the IRC. The nature of CHCC's misconduct overall in abusing its discretionary powers as an IFM posed real, serious and ongoing risks to investors and the integrity of the Ontario capital markets. Staff submits that the nature of that misconduct supports Staff's request for substantial sanctions to serve both general and specific deterrence.

[62] Staff submits that the Respondents' misconduct as found by the Commission resulted in significant harm to the investment funds they managed as well as their unitholders. The Commission found that the unitholders of MACCs and CHDF were wrongfully deprived of various material rights. The Respondents took away fundamental rights of unitholders including rights that adversely affected the ability of investors to oppose actions of their IFM and their ability to vote with their feet by redeeming their units. Further, they deliberately put CHF's assets at risk in the Fairway Transaction and the Citadel Transaction, assets which investors had entrusted to them.

[63] Staff submits that the various risks arising from the Citadel Transaction were foreseeable and occurred and resulted in further harm to CHF and their unitholders, including the following:

(a) Citadel Funds paid over $17 million in break or termination fees in 2009 including the fees paid by Diversified, Series S-I and other Citadel Funds that merged with CIF (see lines 13 and 14 of the Payments Summary) as well as additional fees of at least $190,000 paid by Sustainable, Energy Plus and CGF LP on their mergers to form EIF;

(b) CIF and at least one Citadel Fund paid increased legal expenses totalling approximately $2.3 million;

(c) redeeming unitholders of CIF paid additional fees of approximately $2.6 million charged to reduce the amount owing by CHCC on the Fairway Loan and later to reduce the CHCC Note; and

(d) CIF, EIF and their redeeming unitholders paid CHCC resignation fees in 2012 totalling over $14 million (see paragraph 213 of these reasons and the Payments Summary).

[64] Staff submits that the Respondents intended to obtain long-term financial benefits from the actions they took during the relevant period. In doing so, the Respondents limited potential risks to themselves by placing those risks on CHF and its unitholders. The Respondents should be held accountable for the subsequent consequences of that misconduct.

[65] Staff submits that the Respondents' misconduct includes, in particular, increasing the management fees payable by MACCs and then CHF and using CHF's assets to finance the acquisition of the management rights for the Fairway Fund and the Citadel Funds for their own benefit. Staff submits that the Respondents did so in order to obtain huge financial benefits and did receive such benefits as a result.

[66] According to Staff, the Respondents received net benefits arising from their actions of $23,952,833 between 2009 and 2012 (see paragraph 188 of these reasons). This does not include the $2,129,471 Pushka obtained through Crown Hill Asset Management Inc. ("**CHAM**") and First Paladin Inc. ("**First Paladin**"), both affiliates of CHCC, for their respective portfolio management and back-office administration services to CHF and the various Citadel Funds (see paragraph 219 of these reasons). In Staff's submission, the amounts received by the Respondents flow directly from, and are causally connected to, their misconduct as found by the Commission.

[67] Staff submits that CHCC and Pushka have demonstrated disregard for Ontario securities law and investors and Pushka, in particular, has failed to recognize the seriousness of his improprieties.

[68] Staff submits that the Respondents' conduct has been so harmful that they should be permanently prevented from participating in any capacity in Ontario capital markets. The gravity of the Respondents' conduct and the risks to the investing public warrant the sanctions proposed by Staff. Section 116 of the Act imposes fiduciary obligations on IFMs in recognition of the fact that IFMs have significant powers which can affect the rights and interests of unitholders and those powers are open to abuse by those inclined to take advantage of them. Those powers can be used to achieve very substantial financial gains for an IFM, as occurred in this matter.

[69] In Staff's view, the Respondents deliberately and repeatedly abused their powers and did so for financial gain. Orders removing the Respondents permanently from the capital markets, substantial administrative penalties, and disgorgement of all amounts obtained as a result of their misconduct are proportionate to the Respondents' misconduct and will send a strong deterrent message to the Respondents and to like-minded individuals that participating in these types of actions and transactions, and failing to comply with their fiduciary duty to investors, will result in severe sanctions.

VI. RESPONDENTS' SUBMISSIONS

[70] The Respondents submit that this is not an appropriate case for a disgorgement order. They submit that a disgorgement order has been and should continue to be reserved for cases in which the moneys in question result directly from illegal or otherwise wrongful conduct. Examples of circumstances in which disgorgement is appropriate include those where moneys are raised from investors pursuant to an illegal investment scheme, where fees result from artificially inflated asset values, or where profits are made from illegal trading activities. In this case, Staff seeks the disgorgement of amounts that were lawfully earned pursuant to legal service contracts or were the result of legal transactions approved by unitholders over a four-year period following the Citadel Acquisition. The transactions in question occurred under the oversight of Staff and in important respects were tacitly approved or not disapproved by Staff.

[71] The amounts received by CHCC were received after the significant restructuring of the Reorganization in order to address the concerns that had been expressed by Staff. The Respondents submit that it would send a very mixed message to the market to see such a high level of cooperation ultimately punished by the confiscation of lawful income received after cooperating with Staff. This would not encourage market participants to cooperate with Staff in connection with transactional matters on a real-time basis.

[72] The Respondents stress that CHCC was not running an illegal enterprise. It was not receiving fees as a result of erroneous asset calculations, profits or commissions from improper trading activities or any improper or undisclosed benefits from the funds it managed. The amounts received by CHCC arose from contracts and transactions that have not been impugned. The confiscation of all amounts received by CHCC during the relevant four-year period would be an erroneous application of the concept of disgorgement and would amount to a form of punishment well outside the bounds of any sanctions imposed by the Commission in the past.

[73] The Respondents submit that there is no tangible evidence of harm to investors from the Respondents' conduct and certainly none that is quantifiable and directly linked to the breaches of the Act found by the Commission. There is no evidence of investor losses. Further, CHF and its predecessor funds have been transformed over the years and the unitholder base is not the same. Staff seek the confiscation of $23,952,833 purportedly received by CHCC between 2009 and 2012, that amount to be designated for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act. However, there is no one to whom to distribute such funds should the Commission make the requested order.

[74] The unitholders of both CIF and EIF voted overwhelmingly to affirm CHCC as the IFM of those funds, including the amount of compensation that CHCC was to receive for managing the funds. Those unitholders who did not want to continue under those terms were provided with a cash alternative and a further opportunity to redeem at NAV the following year. The units of CIF and EIF were also traded on the TSX throughout. The Respondents submit that the circumstances leading up to the unitholder votes should not affect the unitholders' clear wishes in that regard, particularly where CHCC has actually performed the duties that it was required to perform pursuant to the various declarations of trust and management contracts.

[75] The Respondents submit that the transactions entered into by CHCC were successful from a financial perspective, notwithstanding the extraordinary intervening events during the summer of 2009. The adverse consequences of the breaches found by the Commission, such as the loss of annual retraction rights or better disclosure, are hard to quantify and raise more of a concern with respect to market integrity. Further, those concerns are moot as a result of the unitholder votes on November 17, 2009 for the creation by merger of CIF and on August 30, 2010 for the creation by merger of EIF.

[76] The Respondents submit that the transactions approved were an attempt to alleviate legitimate problems with the structure of closed-end funds. In executing the transactions, the Respondents sought to alleviate the problem of a shrinking fund, including the arbitrage opportunity for redeeming unitholders (which comes at the expense of remaining unitholders),

increased MER and decreased liquidity that results. While the Commission has reached the conclusion that the Respondents' responses to these problems was disproportionate – that the benefit received by them was greater than the potential benefit to the funds - the Respondents' urge the Commission to consider that, as structured, the transactions were meant to benefit unitholders through the reduction of MER and an increase in liquidity. Further, in structuring each of the transactions, the Respondents ensured that CHF would realize a financial return, and in the case of the Citadel Transaction, would realize that return before CHCC would receive any benefit.

[77] The Respondents ask the Commission to consider the following mitigating factors, which they say are unique to this case:

(a) reliance was placed on the detailed legal advice that was received with respect to the design and implementation of the relevant transactions and the compliance of those transactions with Ontario securities law;

(b) the review and consideration of the various transactions by CHCC's independent directors;

(c) the consideration of the various transactions by CHF's IRC; and

(d) the added layer of review by Robson, the independent portfolio manager of CHF.

[78] In addition, the Respondents note that they repaid to CHF the purchase price of the rights to the Citadel Management Agreements, together with interest, before collecting any of the management fees that were due to it under the CIF and EIF declarations of trust. Therefore, to the extent that the investment in the management contracts is considered to have left unitholders out of pocket, the Respondents have already made restitution of those amounts, including the payment of market interest.

[79] Further, the Respondents urge the Commission to consider CHCC's comprehensive response to the concerns raised by Staff following their intervention in 2009, and CHCC's co-operation with Staff during that period.

[80] In assessing penalties, the Respondents submit that the Commission should not make deterrence the focus of its analysis. As stated above, this is not a case of fraud and no investor funds were misappropriated. It is a unique factual circumstance and, regardless of the Commission's view of the propriety of the various transactions, each transaction was conducted in the open, presented to the CHCC board and IRC, and was the subject of specific legal advice.

[81] Given the unique circumstances of this case, the Respondents submit that there are not a great number of 'like-minded individuals' to whom deterrence would be aimed. Further, specific deterrence is of little consequence in this case. Pushka has surrendered his registration and left the industry and CHCC is no longer managing investment funds. Staff's approval would be required in the unlikely event that the Respondents chose to re-enter the industry. Therefore, the Commission should be careful when fashioning sanctions not to adopt Staff's purely punitive approach.

VII. ANALYSIS

A. THE LAW ON SANCTIONS

(i) Discussion of the Law on Sanctions

[82] The Commission's dual mandate is (a) to provide protection to investors from unfair, improper or fraudulent practices; and (b) to foster fair and efficient capital markets and confidence in capital markets (section 1.1 of the Act).

[83] Subsection 127(1) of the Act gives the Commission power to make various orders if, in the opinion of the Commission, it is in the public interest to do so. The Commission's jurisdiction under subsection 127(1) is neither remedial nor punitive. Rather, the Commission's authority is prospective in operation and preventive in nature. The Supreme Court of Canada has stated that:

> … The purpose of an order under s.127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.
>
> …

> Pursuant to s. 127(1), the OSC has the jurisdiction and a broad discretion to intervene in Ontario capital markets if it is in the public interest to do so. However, the discretion to act in the public interest is not unlimited … The sanctions under the section are preventive in nature and prospective in orientation.
>
> (*Committee for the Equal Treatment of Asbestos Minority Shareholders* v. *Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at paras. 43 and 45)

[84] Accordingly, the Commission's objective when imposing sanctions is not to punish past conduct but to restrain future conduct that may be harmful to investors or Ontario's capital markets. This objective was described in *Re Mithras* as follows:

> … [T]he role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now section 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
>
> (*Re Mithras Management Ltd.* (1990), 13 OSCB 1600 ("***Re Mithras***") at pp. 1610-1611)

[85] In *Gordon Capital Corp*., the Ontario Divisional Court noted the connection between the public interest purposes of the Act and the maintenance of high standards of behavior in the securities industry:

> The general legislative purpose of the *Act* and the OSC's role thereunder is to preserve the integrity of the capital markets of Ontario and protect the investing public. In this context, the proceedings against Gordon and Bond under subs. 26(1) of the *Act* are properly characterized as regulatory, protective or corrective. The primary purpose of the proceedings is to maintain standards of behaviour and regulate the conduct of those who are licensed to carry on business in the securities industry. The proceedings are not criminal or quasi-criminal in their design or punitive in their object. This distinction has been made in a number of cases involving proceedings of a regulatory or public protective nature such as that under subs. 26(1) of the *Act*.
>
> *(Gordon Capital Corp.* v. *Ontario (Securities Commission),* [1991] OJ No 934, 50 OAC 258 ("***Gordon Capital Corp.***") at p. 8).

[86] In *Norshield Asset Management (Canada) Ltd.*, the Commission confirmed that its role is not to punish respondents in Commission proceedings for breaches of Ontario securities law nor to right any wrongs suffered by investors. The Commission noted, however, that the impact of breaches of the Act on investors is a factor that the Commission should consider when determining the appropriate sanctions (*Norshield Asset Management (Canada) Ltd. (Re)* (2010), 33 OSCB 7171 at paras. 92-93).

[87] Further, the Supreme Court of Canada has recognized general deterrence as an additional factor that the Commission may consider when imposing sanctions. In *Cartaway Resources Corp.*, the Supreme Court stated that: "… it is reasonable to view general deterrence as an appropriate and perhaps necessary consideration in making orders that are both protective and preventative" (*Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 ("***Cartaway***") at para. 60). The Court also stated that:

> Deterrent penalties work on two levels. They may target society generally, including potential wrongdoers, in an effort to demonstrate the negative consequences of wrongdoing. They may also target the individual wrongdoer in an attempt to show the unprofitability of repeated wrongdoing. The first is general deterrence; the second is specific or individual deterrence: see C. C. Ruby, *Sentencing* (5th ed. 1999). In both cases deterrence is prospective in orientation and aims at preventing future conduct.
>
> (*Cartaway, supra,* at para. 52)

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

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

[89] The Commission must impose sanctions in each case that are proportionate to the circumstances and the conduct of each respondent. The Commission has previously identified the following as some of the factors that a panel should consider when imposing sanctions:

(a) the seriousness of the conduct and the breaches of the Act;

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

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

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

(e) whether the violations are isolated or recurrent;

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

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

(h) the size of any financial sanction or voluntary payment;

(i) the effect any sanctions may have on the ability of a respondent to participate without check in the capital markets;

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

(k) the effect of the sanctions on the reputation and prestige of the respondent;

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

(m) the remorse of the respondent; and

(n) any mitigating factors.

(*Re Belteco Holdings Inc.* (1998), 21 OSCB 7743 at p. 7746; *Re M.C.J.C. Holdings Inc. and Michael Cowpland* (2002), 25 OSCB 1133 at para. 26; and *Erikson* v. *Ontario (Securities Commission)* [2003] OJ No. 593 (Div. Ct.) at para. 58 ("***Erikson***"))

The most relevant factors in this case are the considerations referred to in clauses (a), (b), (e), (f), (g) and (i) above. We discuss those and other relevant considerations commencing at paragraph 115 of these reasons.

[90] In *Limelight Entertainment Inc.,* the Commission held that, in addition to the general sanctioning factors referred to above, the following factors should be considered when a disgorgement order is proposed to be made:

(a) whether an amount was obtained by a respondent as a result of non-compliance with the Act;

(b) the seriousness of the misconduct and the breaches of the Act and whether investors were seriously harmed;

(c) whether the amount that a respondent obtained as a result of non-compliance with the Act is reasonably ascertainable;

(d) whether the individuals who suffered losses are likely to be able to obtain redress; and

(e) the deterrent effect of a disgorgement order on the respondents and other market participants.

(Limelight Entertainment Inc. (Re), (2008), 31 OSCB 12030 ("***Limelight***") at para. 52)

The most relevant factors in this case are the considerations referred to in clauses (a), (b), (c) and (e) above.

[91] Accordingly, we considered the factors referred to in paragraph 90 above in coming to our conclusions with respect to disgorgement.

[92] Ultimately, the sanctions we impose should protect investors and Ontario's capital markets and deter the Respondents and others from similar misconduct in the future.

(ii) Breach of Fiduciary Duty Cases

[93] This matter involves CHCC's multiple breaches of its fiduciary duty as found in the Merits Decision. Staff referred us to several cases in which courts have considered breaches of fiduciary duty. Those decisions are relevant in considering sanctions for a breach of section 116 of the Act, which imposes a fiduciary duty on IFMs.

[94] While a fiduciary obligation carries with it a duty of skill and competence, the special elements of trust, loyalty and confidentiality inherent in the fiduciary obligation imposes a corresponding duty of loyalty on a fiduciary. The fiduciary principle "monitors the abuse of a loyalty reposed" (see *Hodgkinson v. Simms,* [1994] 3 SCR 377 ("***Hodgkinson***") at paras. 26 and 27). The misconduct in this matter goes "to the heart of the duty of loyalty that lies at the core of the fiduciary principle" (*Hodgkinson, supra,* at para. 93).

[95] At common law, when a court is considering remedies for breaches of fiduciary duty, it considers both prophylactic and restitutionary purposes (*Strother* v. *3464920 Canada Inc.,* [2006] 2 SCR 177 at paras. 75 and 76 *("**Strother**")*).

[96] With respect to the prophylactic purpose, the Supreme Court of Canada held in *Strother:*

> [W]here a conflict or significant possibility of conflict existed between the fiduciary's duty and his or her personal interest in the pursuit or receipt of such profits ... equity requires disgorgement of any profits received *even where the beneficiary has suffered no loss* because of the need to deter fiduciary faithlessness and preserve the integrity of the fiduciary relationship. (Emphasis added)
>
> (*Strother, supra,* at para. 77)

[97] In *Re Manna Trading Corp. Ltd.*, the British Columbia Securities Commission (the "**BC Commission**") ordered disgorgement in circumstances involving a fraudulent investment scheme. The BC Commission held that disgorgement orders serve a prophylactic purpose, citing the Supreme Court's decision in *Strother:*

> In *Strother* v. *3464920 Canada Inc.,* 2007 SCC 24 the Supreme Court of Canada held that disgorgement orders serve a prophylactic purpose, noting that "the objective is to preclude the fiduciary from being swayed by considerations of personal interest." The court goes on to say that such orders "teaches [*sic*] faithless fiduciaries that conflicts do not pay. The prophylactic purpose thereby advances the policy of equity..."
>
> Although *Strother* is about civil disgorgement orders against fiduciaries, the reasoning, in our opinion, applies equally well to administrative disgorgement orders under section 161(l)(g). Those orders serve to deter persons from illegal activity by removing the incentive of profiting from illegal misconduct. Section 161(l)(g) does not have punishment as its objective. It removes from contravening parties money not rightfully theirs, thus advancing the policy of ensuring that those who contravene securities laws do not profit from their misconduct, and that money obtained by contravening the Act is returned.
>
> (*Re Manna Trading Corp. Ltd. (Re),* 2009 BCSECCOM 595 ("***Manna Trading***") at paras. 35 and 36)

[98] In *Hodgkinson,* the Supreme Court of Canada upheld a trial decision in which an accountant was held to have breached his fiduciary obligation to his client, a stock broker, when he advised him to invest in certain tax sheltered properties. At the time, the accountant was also acting for the developers in structuring the projects and did not disclose that fact to his client. The client relied on the advice and suffered significant losses when the value of the properties fell in a general decline in the real estate market. The Supreme Court noted that while there had been a general economic recession, the fiduciary breach had initiated the chain of events leading to the client's loss and the breaching party was required to account for the loss in full (*Hodgkinson, supra,* at paras. 4-12 and 70).

[99] The Supreme Court upheld the trial judge's award of damages finding that it was unjust to place the risk of market fluctuations on an investor who would not otherwise have entered into the transaction but for the advice of the accountant. In doing so, the Supreme Court noted that "[t]he law of fiduciary duties has always contained within it an element of deterrence" and commented that there was a "need to put special pressure on those in positions of trust and power over others in situations of vulnerability" (*Hodgkinson, supra,* at para. 93).

[100] The Supreme Court also stated:

> Like-minded fiduciaries in the position of the respondent would not be deterred from abusing their power by a remedy that simply requires them, if discovered, to disgorge their secret profit, with the beneficiary bearing all

> the market risk. If anything, *this would encourage people in his position to in effect gamble with other people's money*, knowing that if they are discovered they will be no worse off than when they started. As a result, the social benefits of fiduciary relationships, particularly in the field of independent professional advisors, would be greatly diminished. (Emphasis added)
>
> (*Hodgkinson, supra,* at para. 93)

[101] The comments of the Supreme Court set out in paragraphs 96 and 100 above are particularly apt in the circumstances before us. In this case, CHCC gambled with other people's money by causing CHF to make the Fairway Loan and to enter into the Citadel Acquisition. CHCC very substantially profited from that misconduct.

(iii) Fraud Cases

[102] The Respondents submit that the cases referred to by Staff involving fraud are not relevant to imposing sanctions in this case.

[103] In *Re Sextant Capital Management Inc*. (2011) 34 OSCB 5863 ("***Sextant***"), the Commission held that all of the respondents breached their duties as IFMs contrary to section 116 of the Act, committed other violations of securities laws, and acted contrary to the public interest. The corporate respondents and Otto Spork ("**Spork**"), the directing mind of the corporate respondents, were held to have perpetrated a fraud contrary to section 126.1 of the Act, and the corporate respondents were held to have failed to maintain proper books and records contrary to section 19 of the Act. Two other participants were found to have failed to act honestly, fairly and in good faith toward their clients, contrary to section 2.1 of Rule 31-505, and to have acted contrary to the public interest (decision on sanctions in *Sextant Capital Management Inc. (Re)* (2012), 35 OSCB 5213 at para. 3).

[104] The Commission found that the securities law violations in *Sextant* were serious and the respondents' conduct was egregious. The respondents raised $23 million by way of subscriptions from approximately 250 investors. The Commission found that Spork wrongfully inflated the carrying value of his hedge fund's assets which resulted in fee payments to Spork of almost $7.0 million. As a result, the Commission found that investors suffered substantial financial losses.

[105] The Commission imposed permanent market conduct bans on Spork and the corporate respondents, and required Spork to disgorge $6.35 million and pay a $1.0 million administrative penalty and $350,000 in costs.

[106] Staff submits that the decision in *Sextant* is highly relevant to this case because it involved a breach of section 116 of the Act, where the respondents gained financially through increased fees while investors suffered substantial harm. On the other hand, the Respondents submit that *Sextant* involved a finding of fraud and secret personal benefits and that there is no analogy between that case and this one.

[107] Staff submits that the breaches of CHCC's fiduciary duty under section 116 of the Act are just as serious as breaches of Ontario securities law involving fraud and that sanctions decisions involving fraud may be of assistance in determining sanctions in this case.

(iv) Conclusions

[108] Where there has been a breach of fiduciary duty from which a fiduciary has substantially benefited, it is appropriate to order full disgorgement of that benefit to the extent that we are legally entitled to do so under the Act. Ordering disgorgement preserves the integrity of the fiduciary relationship and ensures that others in similar fiduciary relationships are deterred from similar breaches of duty. Disgorgement may be ordered for breach of fiduciary duty even where the beneficiaries of the duty (in this case, CHF and its unitholders) suffered no direct financial loss (see paragraph 96 of these reasons).

[109] There would be limited deterrence if a fiduciary is allowed to profit from its breach of duty. This is particularly so with respect to the regulation of capital markets where enormous sums of money and financial benefits can be involved. As a result, there may be large economic incentives for non-compliance with Ontario securities law (*Rowan* v. *Ontario (Securities Commission),* [2012] OJ No 1375 (CA) ("***Rowan Appeal***"); see paragraph 224 of these reasons). The Commission has adopted the similar principle that a person should not be permitted to profit from their breach of Ontario securities law (see *Allen (Re)* (2006), 29 OSCB 3944 at paras. 35-36, *Momentas, supra,* at para. 46, *Sabourin (Re)* (2010) 33 OSCB 5299 at paras. 68-69, *Pogachar (Re)* (2012), 35 OSCB 6479 at paras. 34-36; and *Sextant, supra*, at para. 16).

[110] While Pushka may have surrendered his registration and is no longer active in the investment fund industry, we must nonetheless consider the general deterrence of others.

[111] In this case, CHCC and Pushka benefited substantially from the breaches of their fiduciary duties. Staff submits that the amounts paid to CHCC over the Relevant Period as a result of the Respondents' misconduct totalled $53,806,738 (although

Staff makes various deductions from that amount in requesting disgorgement; see paragraph 188 of these reasons). There is no doubt that CHCC profited very substantially from the Fairway Loan and the Citadel Acquisition, even if there were some benefits to unitholders from those transactions and even though the Fairway Loan was repaid and the CHCC Note was ultimately discharged.

[112] An IFM such as CHCC is in a particular position of trust because it is managing investors' money on a discretionary basis. An IFM has a particular duty to ensure that, in the management of that money, it does not put itself in a position of conflict and, if it does, to ensure that any conflict is appropriately addressed. CHCC has profited very substantially from transactions that it caused CHF to implement and in which CHCC had a clear conflict of interest. CHCC was gambling with other people's money in connection with the Fairway Loan and the Citadel Acquisition. We held in the Merits Decision that, in doing so, CHCC breached its fiduciary duty to CHF and its unitholders. This is one of the most important considerations in imposing disgorgement and other sanctions in this matter.

[113] We acknowledge, however, that Commission decisions relating to fraudulent investment schemes and illegal distributions are of limited relevance to our consideration of the appropriate sanctions in this matter. While *Sextant* is relevant because that decision involved a breach of section 116 of the Act, we recognise that this matter does not involve fraud or an illegal distribution.

[114] We are satisfied that we have sufficient cogent and compelling evidence before us upon which to base our decisions on sanctions and costs and to appropriately exercise our public interest jurisdiction.

B. FACTORS CONSIDERED IN IMPOSING SANCTIONS

[115] The Commission must apply the principle of proportionality in determining the appropriate sanctions to be imposed on a respondent. That means that the sanctions imposed must be proportionate to both the conduct of the respondent and to the particular circumstances of the respondent.

[116] In imposing sanctions on the Respondents, we considered the following factors.

(i) The Seriousness of the Contraventions of Ontario Securities Law

[117] The contraventions by the Respondents of Ontario securities law found in the Merits Decision involve very serious breaches of Ontario securities law, including multiple breaches of fiduciary duty.

[118] An IFM has a fiduciary duty under section 116 of the Act. Accordingly, an IFM is required to act with utmost good faith and in the best interests of the investment fund it manages and to put the interests of the fund and its unitholders ahead of its own. We held in the Merits Decision that acting in the best interests of CHF included "an obligation to look to and take account of the best interests of the unitholders of that fund as a whole" (Merits Decision at para. 109). We also held in the Merits Decision that there were multiple breaches by CHCC of this duty. An IFM's breach of its fiduciary duty under section 116 of the Act by using fund assets for its own benefit is very serious misconduct.

[119] The misconduct in this case took place over approximately one year and was not an isolated event. The Respondents materially breached their fiduciary duties to CHF and its unitholders four times during that period.

[120] The Commission held in the Merits Decision that Pushka "orchestrated all of these events and transactions, manipulated them to obtain his intended outcomes and knew exactly what he was doing." The Commission concluded that "[o]verall, Pushka's conduct was appalling for a person in a fiduciary relationship with CHF (and its predecessors)" (Merits Decision at para. 632).

(ii) Investor Harm

[121] One of the factors we must consider in imposing sanctions is whether the breaches by CHCC of its fiduciary duty gave rise to investor harm. Accordingly, we must assess whether CHF unitholders suffered direct financial losses as a result of CHCC's breaches of its fiduciary duty. In this case, the Fairway Loan was repaid with interest to CHF and the investment by CHF in the rights to the Citadel Management Agreements was repaid in cash and by the issuance of the CHCC Note that was ultimately discharged.[1] These circumstances are a factor in considering appropriate sanctions. We note, however, that disgorgement, in particular, can be ordered for a breach of fiduciary duty even where there have been no direct investor losses (see paragraph 96 of these reasons).

[1] We refer to the "discharge" of the CHCC Note. That was the term used in the CHF financial statements and we have adopted that usage primarily because the CHCC Note was reduced by redemption fees paid by unitholders (see paragraph 213 of these reasons) and by "profits" arising from CHF's normal course issuer bid (see paragraph 126 of these reasons).

[122] The fact that CHF unitholders did not suffer direct financial losses (except as referred to in paragraph 125 below) does not mean, however, that unitholders of CHF did not suffer harm as a result of the breaches by CHCC of its fiduciary duty. As discussed in the Merits Decision, unitholders were exposed to substantial financial and other risks as a result of the Fairway Loan and the Citadel Acquisition (see paragraph 377 of the Merits Decision and the discussion commencing at paragraph 524 of the Merits Decision). For instance, we stated in the Merits Decision with respect to the Citadel Acquisition that:

> [528] If the unitholders of the Citadel Funds voted to terminate the Citadel Management Agreements, the relevant Citadel Funds would have been obligated to pay CHF (assuming that CHF was holding the rights in those agreements) aggregate termination fees of approximately $16 million (based on Pushka's statement at the CHCC Board meeting on June 22, 2009; see paragraph 443 of these reasons). Those termination fees were substantially less than the $28 million paid by CHF for the acquisition of the rights to the Citadel Management Agreements. Pushka advised the CHCC Board that terminations of those agreements were unlikely. Nonetheless, they were a real risk given the controversial nature of the proposed mergers from the perspective of the Citadel unitholders and the material changes that were proposed to be made to the rights of Citadel unitholders, including increased management fees, through the mergers …
>
> (Merits Decision at para. 528).

[123] As events ultimately turned out, only five of the Citadel Funds were merged with CHF. The other Citadel Funds paid break fees of $9,756,275 to CH Administration LP[2] as a result of the termination of the relevant Citadel Management Agreements (line 13 of the Payments Summary). That means that one of the significant risks to CHF of the Citadel Acquisition actually occurred. As noted above, if all of the Citadel Management Agreements had been terminated, CHF would have received $16 million in termination or break fees, far less than its investment of $28 million in the rights to the Citadel Management Agreements.

[124] The Respondents caused CHF to enter into the Fairway Loan and the Citadel Acquisition knowing the substantial risks that would arise and that those risks would be borne by CHF and its unitholders. Those risks were real and foreseeable. The fact that the Fairway Loan was repaid and the CHCC Note was ultimately discharged does not detract from the seriousness of those risks. While CHF was exposed to the risks, the Citadel Acquisition allowed CHCC to obtain substantial financial benefits that were disproportionate to any benefits to unitholders that arose upon the mergers of the Citadel Funds with CHF (see paragraph 128 below).

[125] Further, (i) CHF unitholders who redeemed their units after the Fairway Transaction were charged a portion of the Fairway Loan totalling $364,884 (see paragraph 343 of the Merits Decision and line 26 of the Payments Summary); (ii) CIF and EIF unitholders who redeemed their units after the amendments to their respective declarations of trust approved at the August 2012 Meetings (referred to in paragraph 139 of these reasons) were charged a 5% redemption fee aggregating $6,598,892 during the Relevant Period (see paragraph 213 of these reasons and lines 18 and 19 of the Payments Summary); and (iii) the CHCC Note was reduced by the difference between the market price of units purchased by CHF pursuant to its normal course issuer bid and the NAV of those units aggregating $4,980,491 (line 25 of the Payments Summary). Accordingly, CHF unitholders directly subsidised the repayment of the Fairway Loan and the discharge of the CHCC Note.

[126] As noted above, the CHCC Note was reduced by the difference between the market price of units purchased by CHF pursuant to its normal course issuer bid and the NAV of those units. CHF used its own assets to acquire the units pursuant to its normal course issuer bid. Any "profit" from those purchases was a CHF asset. By reducing the amount of the CHCC Note in this manner, CHCC appropriated a CHF asset and applied that asset to reduce *the debt of CHCC to CHF.*

[127] Accordingly, there was real investor harm, and potential harm, as a result of CHCC's breaches of its fiduciary duty.

(iii) Amounts Obtained by CHCC

[128] The financial benefits obtained by CHCC as a result of its breaches of fiduciary duty are one of the most important considerations in this matter. We made the following statements in this respect in the Merits Decision:

> [374] There is no doubt that the small size of CHDF as of July 2008 meant that the fixed costs of operating the fund were becoming a burden to unitholders (see the disclosure in the August 08 Circular set out in paragraph 239 of these reasons). As of July 23, 2008, the CHDF NAV was approximately $6.4 million. CHDF and MACCs were merged on December 30, 2008, as a result of which the NAV of the continuing fund increased to approximately $10.2 million. Pushka reported to the CHCC Board on March 27, 2009 that, as a result of the merger of CHDF and MACCs, "liquidity had increased greatly" (see paragraph 262 of these reasons). A similar report was made to the IRC at a meeting held on April 8, 2009. As a result of the merger of CHF with the

[2] CH Administration LP was the limited partnership that, indirectly through 1472278 Alberta Ltd., held the rights to the Citadel Management Agreements. CHF owned, directly or indirectly, all of the equity of that partnership.

Fairway Fund on January 23, 2009, the NAV of the continuing fund increased to approximately $44 million. The following table shows these increases in NAV and includes the subsequent increase in NAV as a result of the merger of five of the Citadel Funds with CHF in December 2009:

	Approximate CHF NAV[1]
As of July 23, 2008 (for CHDF)	$6.4 million
After the merger with MACCs on December 30, 2008	$10.2 million
After the merger with the Fairway Fund on January 23, 2009	$44 million
After the mergers with five of the Citadel Funds in December 2009	$237 million

[1]Approximate NAV of the continuing fund.

[375] There is equally no doubt that CHF unitholders obtained benefits from the merger of CHF with the Fairway Fund. Those benefits were increased market liquidity for their units as a result of having more units outstanding and the spreading of fixed fund costs over the larger number of units outstanding. As a result of the merger, CHF increased its NAV from approximately $10.2 million to approximately $44 million. Subsequent to the Fairway Transaction, CHF's MER was reduced to 1.8% for the six months ended June 30, 2009. (The CHDF MER for the period ended June 30, 2008 was 3.62% and for MACCs was 5.10% (see paragraph 183 of these reasons)). Further, the Fairway Transaction did not dilute the interests of CHF unitholders (because the merger of CHF with the Fairway Fund was carried out based on NAV) and the costs were represented by Pushka in the Discussion Document as being a fraction of what they would have been if CHF had carried out a public distribution of additional units (see paragraph 320 of these reasons).

[376] Those benefits were, however, much less significant than the increase in management fees that CHCC received as a result of the acquisition of the rights to the Fairway Management Agreement and the increase in NAV of CHF following the merger of CHF with the Fairway Fund. For the year ended December 31, 2008, the management fees paid by CHF to CHCC were $44,218 and the management fees paid by MACCs to CHCC were $21,767. For the year ended December 31, 2009, the management fees paid by CHF to CHCC had increased to $606,404 (we note that five Citadel Funds were merged with CHF in December 2009) and for the year ended December 31, 2010, they were $2,458,427 ...

(Merits Decision at paras. 374 to 376)

[129] Clearly, CHCC substantially benefited from increased management fees following the mergers of the Fairway Fund and five of the Citadel Funds with CHF. CHCC also benefited from the payment to it of management, termination, redemption and other fees.

130] Staff prepared a summary of the amounts they say were obtained by CHCC and Pushka as a result of their contraventions of Ontario securities law in connection with the Citadel Acquisition. Yvonne Lo, a Staff senior forensic accountant, submitted an affidavit sworn on November 8, 2013 addressing this issue (the "**Lo Affidavit**"). Exhibit "HHH" to the Lo Affidavit is attached as Schedule B to these reasons. That Schedule sets forth a summary of those amounts (we refer to that Schedule as the "**Payments Summary**".) The Payments Summary shows that, over the Relevant Period, CHCC and related entities received, or had the direct benefit of, management and other fees and amounts totalling $53,806,738 (see paragraphs 187 and 188 of these reasons and the Payments Summary). Accordingly, it is clear that CHCC received very substantial amounts as a result of the breaches of its fiduciary duty in connection with the Citadel Acquisition (see the discussion of causation commencing at paragraph 197 of these reasons).

(iv) Deterrence

[131] Deterrence is one of the most important considerations in determining sanctions for an IFM for breaches of fiduciary duty because of the real possibility that an IFM will abuse its position of trust to obtain substantial financial gains. Section 116 of the Act imposes a fiduciary obligation on an IFM in recognition of that possibility and of the fact that an IFM has significant discretion over the management of the assets of others. An IFM that abuses that trust must be subject to substantial sanctions that send a strong deterrent message (see our conclusions in this respect commencing at paragraph 108 of these reasons). Sanctions in this matter must be sufficient overall to provide effective deterrence to the Respondents and others.

(v) Approvals by Unitholders

[132] The Respondents urge us to consider the role played by unitholders in approving matters that occurred subsequent to the intervention by Staff in June 2009 following the Citadel Acquisition. The Respondents submit that we should consider the importance of the following unitholder approvals:

(a) the approval by CHF unitholders of mergers with certain of the Citadel Funds, the Divestiture and other matters at the September 2009 Meeting, by 97.64% of the units that were voted (see the discussion commencing at paragraph 206 of these reasons);

(b) the approval of the creation by merger of CIF by the unitholders of Hytes (by 98.25% of the units that were voted), Premium (by 95.33% of the units that were voted), S-I (by 97% of the units that were voted) and Stable S-I (by 93.95% of the units that were voted) (see paragraph 26 of these reasons);

(c) the approval of the creation of the Blue Ribbon Fund by the unitholders of Diversified by 95% of the units that were voted and by the unitholders of Series S-I by 98% of the units that were voted (see paragraph 25 of these reasons). The Respondents submit that the circular sent to unitholders in connection with that meeting clearly disclosed the termination fees that would be paid if the transaction was approved;

(d) the approval of the creation of EIF, with CHCC as IFM, by 83.05% of the units of Sustainable that were voted and by 99.51% of the units of CGF LP that were voted (see paragraph 32 of these reasons); and

(e) the approval by unitholders of CIF and EIF at the August 2012 Meetings at which unitholders approved the Unitholder Empowerment Plan that included fees of 5% of NAV payable to CHCC on CHCC's termination or resignation as IFM, and redemption fees of 5% of NAV upon any redemption of units, which resolution was approved by 94.20% and 89.62% of the units that were voted, respectively (see paragraph 43 of these reasons).

[133] The September 2009 Meeting is discussed in more detail commencing at paragraph 206 below and the August 2012 Meetings are discussed in more detail commencing at paragraph 139 below.

[134] We do not accept the Respondents' submission that the unitholder approvals referred to in paragraph 132 above are material mitigating factors for the following reasons:

(a) the mergers referred to in paragraphs 132 (a), (b) and (d) above were directly related to the Citadel Acquisition and were carried out in furtherance of CHCC's original objective of causing CHF to merge with the Citadel Funds as part of the Citadel Transaction;

(b) the approvals by unitholders at the September 2009 Meeting and at the August 2012 Meetings were based, in each case, on a single vote on one resolution relating to a number of different material matters (see the discussion commencing at paragraphs 206 and 139 of these reasons);

(c) a unitholder who opposed or disagreed with (i) the terms of the Divestiture considered at the September 2009 Meeting, or (ii) the matters considered at the August 2012 Meetings, may well have voted in favour in order to be able to redeem their CIF or EIF units based on NAV rather than the lower market price (see paragraph 136 below);

(d) there was no disclosure to unitholders in connection with the vote at the September 2009 Meeting of the alleged contraventions by CHCC of its fiduciary duty that were the subject of the Merits Hearing (see paragraph 138 below);

(e) the disclosure in the CIF Circular in connection with the August 2012 Meetings provided no substantive disclosure to unitholders of the basis or reasons for the views expressed by the IRC (see paragraphs 144 to 146 of these reasons); and

(f) while the percentage votes in favour of the relevant matters appear overwhelming, those percentages are of the units that were voted at the meetings; generally, relatively few unitholders of investment funds participate in or vote at such meetings; the quorum for meetings of unitholders of CHF was 10% of the units; we do not know how many units were represented at each meeting.

See our specific conclusions with respect to the CHF unitholder approvals given at the September 2009 Meeting and the August 2012 Meetings in paragraphs 151 and 211 of these reasons.

[135] It is important to note that simply because CIF or EIF unitholders approved the matters voted on at the August 2012 Meetings does not mean that the later payment of termination or resignation fees to CHCC were not amounts obtained by CHCC as a result of its breach of its fiduciary duty. Depending on the circumstances, unitholder approval may not be absolution for a breach of fiduciary duty, particularly where the circumstances are not adequately disclosed to unitholders or the unitholders are not given the opportunity to vote separately on distinct and material matters. That appears to be the case with respect to the approvals given by unitholders at the August 2012 Meetings (see the discussion commencing at paragraph 139 below). Further, in our view, the CHF unitholder approvals given at the September 2009 Meeting and the August 2012 Meetings did not break the causal link between the Respondents' breach of their fiduciary duty in connection with the Citadel Acquisition and the subsequent payment of termination or resignation fees to CHCC.

[136] With respect to paragraph 134(c) above, we know that redemptions in connection with the mergers following the September 2009 Meeting resulted in an approximate 50% decrease in the assets of the merging funds; redemptions in connection with the mergers referred to in paragraph 132(d) above resulted in a reduction of fund assets of approximately 25%; and redemptions following the August 2012 Meetings resulted in CIF redemptions of $96,992,273, and EIF redemptions of $30,811,978.

[137] We note in this respect that the CIF Circular (for the August 2012 Meetings) contained the following disclosure:

> **1. Enhanced Redemption Option:**
>
> Since Citadel Income Fund's (the "Fund") issuance of warrants in 2011, units of the Fund have been trading at a higher discount to net asset value (the "Discount") than in prior years. In an effort to reduce the Discount and provide enhanced liquidity, the Manager has actively purchased and cancelled units through a normal course issuer bid.
>
> Despite the Manager's best efforts, the Discount has not substantially narrowed and averaged 17.4% as recently as May 2012.
>
> By providing the right to unitholders to voluntarily elect to receive an **unlimited cash redemption** of their units at 95% of the net asset value of units less expenses, unitholders will be able to redeem potentially at a price in excess of the trading price and thereby narrow the Discount. (Emphasis in original)

Accordingly, any redeeming unitholders would have received on redemption an amount that was approximately 12.4% more than the market price of their units but nonetheless 5% less than NAV.

[138] We note with respect to paragraph 134(d) above that the disclosure in the proxy circular for the September 2009 Meeting was that "[t]he OSC has expressed strong concerns about the Fund, as a closed-end fund, having acquired a beneficial interest in the management of other closed-end funds through the Citadel Acquisition. They expressed a separate concern because the Citadel Acquisition is significant relative to the size of the Fund. In recognition of the OSC's concerns, and assuming that the Hostile Proposal is unsuccessful, the Manager intends to implement a divestiture plan (the "Divestiture Plan") for the Administrative Services Agreements."

(vi) Unitholder Approvals Given at the August 2012 Meetings

[139] The special meetings of CIF and EIF unitholders held on August 7, 2012 (referred to in these reasons as the August 2012 Meetings) was to consider and vote on the Unitholder Empowerment Plan. The notice of meeting for the CIF unitholder meeting indicated that the vote was on a single resolution that:

> (a) provided for the right of unitholders to redeem an unlimited number of their units at 100% of NAV per unit less retraction costs and a fee payable to CHCC as IFM of 5% of the NAV of the units redeemed;
>
> (b) implemented a series of minority unitholder protections which included a requirement that ordinary and extraordinary resolutions would require affirmative votes of 50% and 66 2/3%, respectively, of beneficial unitholders;
>
> (c) amended the provisions of the trust indenture relating to the "termination and replacement" of the IFM;
>
> (d) removed certain provisions of that trust indenture that allowed the trustee of CIF to make changes to the declaration of trust without unitholder approval; and
>
> (e) made a number of other amendments to the declaration of trust.
>
> (Notice of Special Meeting of Unitholders dated July 4, 2012)

We note that the reference to the "termination and replacement of the IFM" does not refer expressly to the "voluntary resignation" of the IFM.

[140] As noted above, the CIF Circular was entitled "The Unitholder Empowerment Plan". The cover letter to unitholders accompanying the CIF Circular made no mention of the amendments to the provisions of the trust indenture relating to the termination or resignation of CHCC as IFM (although the reference set forth in paragraph 139(c) above was made to that matter in the notice of meeting and in the CIF Circular under "Special Meeting Business"). At the end of the cover letter in bold text was the statement that "Special Redemption Right Only available if the Extraordinary Resolution is approved" and "If you wish to redeem your units, please contact your investment adviser."

[141] There were two paragraphs in the CIF Circular under the heading "Amendments to Provisions Relating to Resignation or Removal of Manager". The first paragraph indicated that the CIF Declaration of Trust was proposed to be amended "to reduce the period for removal of the Manager by Unitholders from 180 to 60 days and reduce the notice period for resignation from 180 days to 45 days."

[142] The second paragraph provided as follows:

> The Manager will be entitled to a fee of 5% of the net asset value of the Fund upon removal or resignation. This fee represents a recapture by the Manager of the significant long-term investment it has had to undertake to act as manager of the Fund, for which it would have been reimbursed in the normal course had the Manager remained the manager [*sic*] of the Fund.

[143] Schedule I to the CIF Circular set out the specific amendments being made to the CIF Declaration of Trust with respect to the resignation or removal of the IFM. In addition to permitting the IFM to resign on 45 days' notice, a new Section 11.5(4) was proposed as follows:

> If the Manager is terminated pursuant to Section 11.5(1) or the Manager is partially terminated through the redemption, cancellation or retraction of units, the Trust shall pay to the Manager, in cash, at least one business day prior to the termination an amount equal to the product of the net asset value of the number of units to be terminated and five percent (plus applicable taxes, if any), together in any event with the reasonable expenses of the Manager resulting from such termination, including without limitation, costs incurred to terminate employees, office and equipment leases and agreements for services. Each of the Trust and the Manager agree that the foregoing obligations of the Trust represent a genuine pre-estimate of the damages that would be suffered by the Manager in the event the Manager or the Trust was terminated or partially terminated.
>
> If the Manager tenders its resignation pursuant to Section 11.5(1), then the Trust shall pay to the Manager, in cash, within 45 days of such resignation being tendered an amount equal to the product of the net asset value of the number of units to be terminated and five percent (plus applicable taxes, if any), together in any event with the reasonable estimate of expenses of the Manager anticipated to result from such resignation, including without limitation, costs incurred to terminate employees, office and equipment leases and agreements for services.

It is not clear to us how this last paragraph operated on a resignation of the IFM because there are no "units to be terminated" in the case of a resignation. It was presumably this paragraph that was relied upon by CHCC to receive the termination fees in connection with its resignation as IFM referred to in paragraph 213 of these reasons.

[144] There was only one paragraph of the CIF Circular under the heading "Recommendation of the Independent Review Committee". That paragraph provided as follows:

> As required by National Instrument 81-107, "Independent Review Committee for Investment Funds", the Manager has established an independent review committee (the "IRC") for the Fund. The Manager referred the calling of the Meeting to the IRC for its consideration. On July 4, 2012, the IRC advised the Manager that it had concluded that the calling of this Meeting to put before Unitholders such resolutions as are contemplated in this Circular is a fair and reasonable process to be followed by the Fund and that the matters to be considered at the Meeting, if approved, would achieve a fair and reasonable result for the Fund.

[145] There was no disclosure in the CIF Circular identifying the members of the IRC and there was no discussion of (i) what conflicts of interest on the part of CHCC required matters to be submitted to the IRC; or (ii) what the IRC considered and relied on in concluding that "… the matters to be considered at the Meeting, if approved, would achieve a fair and reasonable result for the Fund." We note that those matters included the payment to CHCC of (i) a termination or resignation fee of 5% of NAV in the event it was terminated as IFM or it resigned; and (ii) a fee to be paid by redeeming unitholders to CHCC of 5% of the NAV of any units redeemed.

[146] There was no other disclosure in the CIF Circular relating to the resignation of CHCC as IFM. *In particular, there was no statement by CHCC as to its intentions with respect to resigning as IFM and there was no reference in the circular to the notice filed by Artemis with Staff, almost eight months earlier, on December 21, 2011, relating to Artemis' proposed acquisition of all or a substantial part of the assets of CHCC and Artemis becoming IFM of CIF and EIF* (see paragraph 159 of these reasons).

[147] The Respondents filed written submissions in connection with this hearing on sanctions and costs (the "**Submission**"). In Part II of the Submission – Statement of Facts, reference was made to the August 2012 Meetings. The Submission included the following two concluding paragraphs:

> 95. Further, a resolution was proposed that the Manager would be entitled to a fee of 5% of NAV upon removal or resignation.
>
> 96. At the unitholder meeting of CIF on August 7, 2012, the various resolutions were proposed as part of the Unitholder Empowerment Plan, including the Special Retraction and fee for the removal or resignation of the Manager, were approved 94.20% of the units voted[48] [*sic*]. At the EIF meeting, the resolutions were approved by 89.62% of the units voted.[49]

[148] The reference to the EIF meeting was a reference to the special meeting of unitholders of EIF also held on August 7, 2012 at which identical business was conducted (defined as one of the August 2012 Meetings). The proxy circular for that meeting was substantially identical to the CIF Circular (see paragraph 42 of these reasons).

[149] The amendments made to the CIF and EIF declarations of trust as a result of the August 2012 Meetings must be the basis upon which termination fees were paid to CHCC following CHCC's resignation as IFM of CIF and EIF. CHCC evidently decided to resign as IFM no later than the previous December 21, 2011 when Artemis gave notice to Staff of its proposed acquisition of the assets of CHCC (see paragraph 159 of these reasons). Artemis was approved as the new IFM by unitholders of CIF and CEF at unitholder meetings held on December 18, 2012. The resignation of CHCC as IFM appears to have been effective on January 15, 2013 when Artemis was appointed.

[150] The Respondents submit, among other things, that the termination fees and other amounts paid to CHCC upon its resignation as IFM were not causally connected to CHCC's breach of fiduciary duty arising from the Citadel Acquisition because the approvals given by unitholders at the August 2012 Meetings were intervening events that broke the chain of causation (see the discussion of causation commencing at paragraph 197 of these reasons). We do not accept that submission. First, we do not agree that the unitholder approvals or other intervening events referred to by the Respondents broke the chain of causation between the breach by CHCC of its fiduciary duty and the payment of those fees and amounts (see paragraphs 203 and 204 of these reasons). In any event, the circumstances described above relating to the August 2012 Meetings (commencing at paragraph 139 above) raise on their face sufficient concerns surrounding (i) the adequacy of the disclosure made to unitholders, and (ii) the validity and effectiveness of the approvals by unitholders of the amendments permitting the payment of termination fees to CHCC on its voluntary resignation, as to lead us to conclude that the resolutions passed by CIF and EIF unitholders at the August 2012 Meetings did not break the causal link between the breach by CHCC of its fiduciary duty in connection with the Citadel Acquisition and the payment of those termination fees.

[151] Accordingly, we conclude that the approvals given by CIF and EIF unitholders at the August 2012 Meetings are not mitigating considerations in imposing sanctions on the Respondents.

(vii) Involvement of Staff in Subsequent Events

[152] CHCC submits that:

> In this case, Staff was intimately involved with the events that followed the Citadel Acquisition and, if Staff was of the view that it was inappropriate for the respondents to obtain any amount of money, it had significant powers at its disposal to restrain such event. It is completely unfair for Staff to have passively observe [*sic*] the various events that have occurred over the past five years, many of which directly resulted in the payment of money to CHCC and many of which were completed with the express approval of the Commission, and then attempt to claim those amounts for the Consolidated Revenue Fund as being an 'improper benefit' obtained as a result of non-compliance.
>
> (Submission at para. 143)

[153] We respond to those submissions as follows.

[154] First, there is no question that CHCC responded to Staff's concerns by restructuring the CHF investment in the rights to the Citadel Management Agreements (by means of the Divestiture) and by addressing a number of the other concerns raised by

Staff with respect to the Citadel Acquisition and the Reorganization as originally contemplated. Further, a number of those other concerns were addressed by CHCC by (i) maintaining the listing of CHF units on the TSX; (ii) CHF granting the Special Redemption Right to unitholders in connection with the Divestiture; and (iii) CHCC not implementing mergers of CHF and certain of the Citadel Funds based on the permitted merger provision in a fund's declaration of trust.

[155] It appears to us, however, that Staff's principal objective was to have the Citadel Acquisition reversed or restructured in the best interests of CHF unitholders. CHCC was, however, unable to obtain financing to simply purchase the rights to the Citadel Management Agreements from CH Administration LP for cash. As a result, CHF's investment was restructured by the transfer of the rights to the Citadel Management Agreements to CHCC, the consideration for which was a cash payment to CHF and the issuance of the CHCC Note. That transaction is referred to in these reasons as the "Divestiture" (see paragraphs 30 and 209 of these reasons). Further, Staff appears to have reviewed the disclosure in the CHF management proxy circular related to unitholder approval of the Divestiture (see paragraph 206 of these reasons). We note, however, that events subsequent to June, 2009 were not the subject matter of the Merits Hearing as agreed by Staff and the Respondents. Further, no witnesses were called by any party to testify at the sanctions and costs hearing as to what Staff may or may not have reviewed or approved and on what basis. The Respondents have the onus of establishing that Staff approved all of the matters the Respondents say that Staff approved.

[156] In any event, Staff must have been prepared to accept the terms of the Divestiture, including the issue and terms of the CHCC Note, the Special Redemption Right and the disclosure with respect to Staff's position referred to in paragraph 138 of these reasons. Further, CHCC addressed a number of the other Staff concerns with the Citadel Acquisition and the Reorganization referred to in paragraph 154 above. Accordingly, CHCC's co-operation with Staff in restructuring CIF's investment in the rights to the Citadel Management Agreements and in addressing Staff's other concerns are mitigating factors that we take into account in considering the imposition of sanctions on the Respondents.

[157] The Respondents knew, however, that Staff had been investigating the circumstances surrounding, among other matters, the Fairway Loan and the Citadel Acquisition. There is no evidence before us or any suggestion that Staff agreed to discontinue that investigation as a result of CHCC proceeding with the Divestiture. Rather, the Divestiture appears to us to have been undertaken by CHCC in order to stay Staff's hand from taking more immediate action to intervene in the interests of unitholders. The terms of the Divestiture and the disclosure in the management proxy circular related to unitholder approval of the Divestiture were ultimately CHCC's responsibility and any review or comments by Staff did not relieve CHCC from that responsibility.

[158] Staff did not allege in this matter that the disclosure to unitholders with respect to the Divestiture was defective or inadequate or that the Divestiture was not validly approved by unitholders. There is no evidence, however, that Staff directly approved the making of any payments by CIF or EIF to CHCC as IFM during the Relevant Period, including any management, termination, redemption or other fees paid to CHCC. It is not sufficient to say that Staff indirectly approved those fees because Staff knew of the existence of the fees because they were referred to in a disclosure document reviewed by Staff. In our view, Staff acceded, by staying its hand, only to the matters referred to in paragraph 156 above. Further, we note that the Divestiture did not directly address the payment to CHCC of management, termination, redemption or other fees (other than the Special Redemption Right). The payment of termination, redemption and other fees was approved by CIF and EIF unitholders at the August 2012 Meetings held *approximately three years after the Divestiture*. We discuss the approvals given at the August 2012 Meetings commencing at paragraph 139 of these reasons.

[159] There was, however, approval given by Staff of the acquisition by Artemis in January, 2013 of all or a substantial part of the assets of CHCC, which included the right to be appointed IFM for CIF and EIF. By letter dated December 21, 2011, Artemis gave notice to Staff of that proposed acquisition. Staff initially objected to the acquisition on January 18, 2012 (in order to require Staff approval of that transaction, Staff had to object to it within 30 days of receiving the notice). Subsequent to that objection, Artemis amended its notice by further correspondence dated February 13, 2012, September 27, 2012, December 5, 2012, December 12, 2012, December 14, 2012, January 3, 2013, January 4, 2013 and January 7, 2013. More than a year after the initial notice from Artemis, Staff withdrew its objection and approved the proposed acquisition by Artemis in a one-page letter dated January 14, 2013 (the "**Approval Letter**") (the Approval Letter was Exhibit S to the affidavit of Clarke Tedesco sworn February 21, 2014). Staff did not, in that letter, expressly address the payment of any fees to CHCC in connection with that acquisition. Further, the letter expressly states that:

> Notwithstanding the foregoing approval, OSC staff has concerns with how the special meetings of the Funds' unitholders were conducted by CHCC to effect the Proposed Acquisition.

We note that CHCC was not expressly a party to the Approval Letter or, we assume, to the correspondence referred to in that letter.

[160] The Approval Letter was submitted to us in evidence. We do not, however, have in evidence before us any of the correspondence between Staff and Artemis referred to in the Approval Letter and we do not know what issues may have been addressed in that correspondence or what Staff concerns caused the delay in Staff approving the acquisition for more than a

year. We are not prepared to conclude, based only on the Approval Letter, that Staff approved any of the termination fees or other amounts paid to CHCC in connection with its resignation as IFM. As a matter of principle, it is unlikely that Staff would ever agree to approve the payment of any such fees. At its highest, the Respondents' submission must be that Staff *indirectly* approved such fees. Having agreed with Staff not to address in the Merits Hearing events or transactions occurring after June, 2009, and having failed to introduce any evidence at the sanctions and costs hearing (other than the Approval Letter) supporting the submission that Staff approved the termination fees and other amounts paid to CHCC upon its resignation as IFM, the Respondents cannot expect such an unsubstantiated submission to be given much weight. In our view, the Respondents have not met the onus of establishing that Staff approved any matters other than those referred to in paragraphs 156 and 159 above. In particular, the Respondents have not established that Staff approved any termination fees or other amounts paid by CIF and/or EIF in connection with CHCC ceasing to be the IFM of those funds.

[161] There is no evidence whatsoever that the Commission itself approved the Divestiture or any fees or other amounts paid to CHCC during the Relevant Period or as a consequence of CHCC resigning as IFM of CIF and EIF.

[162] We also reject the submission by the Respondents that Staff's request for disgorgement is "an improper attempt to punish the respondents by seeking the disgorgement of amounts that Staff, and the Commission, could have prevented the payment of at first instance" (Submission at para. 144). It hardly lies in the mouth of the Respondents who, in breach of their fiduciary duty, orchestrated and implemented the events and transactions addressed in the Merits Decision to say that Staff or the Commission could have intervened to prevent payments to CHCC made pursuant to or subsequent to those events and transactions.

[163] Accordingly, except as noted in paragraphs 156 and 159 above, the Respondents cannot rely on purported Staff approvals as a significant mitigating factor in our consideration of the sanctions that should be imposed on the Respondents.

(viii) Approvals by Independent Directors and the IRC

[164] The Respondents also submit that mitigating factors in connection with this matter include the review and approval of the Fairway Loan and the Citadel Acquisition by CHCC's independent directors and by the independent review committee for the Fairway Fund and CHF. While those are relevant considerations, they are not significant factors for the following reasons:

(a) CHCC had a fiduciary duty to CHF and its unitholders and it cannot shift that responsibility by pointing to the roles or approvals of others; and

(b) we stated in the Merits Decision that:

> [632] It is clear that CHCC and its affiliates were a one-man band. Pushka was the directing mind, the sole shareholder (directly or indirectly), a director, Chief Executive Officer and the only senior officer of CHCC. Pushka initiated, caused to be carried out and directed all of the actions and transactions involving CHCC, its affiliates and CHF (and its predecessors) described in these reasons. Among other things, Pushka:
>
> (a) caused to be made the amendments to the MACCs Declaration of Trust referred to in paragraphs 191 and 202 of these reasons;
>
> (b) initiated and caused the mergers of CDHF with MACCs, the merger of CHF with the Fairway Fund and the mergers of CHF with five of the Citadel Funds;
>
> (c) established the terms of the Fairway Loan, the Reorganization and the Preferred Return, and negotiated and caused the Citadel Acquisition to be carried out;
>
> (d) determined the nature and extent of the information submitted to the CHCC Board and the IRC in considering the matters referred to in clauses (a), (b) and (c) above including preparation of the Discussion Document, the Pushka Memorandum and the Results Document;
>
> (e) caused the preparation of, and approved the disclosure in, the June 08 Circular, the August 08 Circular and the June 09 Circular;
>
> (f) instructed Stikeman;
>
> (g) communicated the Stikeman legal advice to the IRC in connection with the Citadel Transaction; and

(h) made representations to the independent directors of CHCC and the members of the IRC referred to in these reasons, and responded orally to questions by them.

In our view, Pushka orchestrated all of these events and transactions, manipulated them to obtain his intended outcomes and knew exactly what he was doing. At times, he misled the independent directors of the CHCC Board and the members of the IRC … but, in any event, he failed to make full disclosure to them. CHCC cannot rely on any approval by the CHCC Board or any recommendation of the IRC where less than full disclosure was made. Overall, Pushka's conduct was appalling for a person in a fiduciary relationship with CHF (and its predecessors).

(Merits Decision at para. 632)

(ix) Robson's Involvement

[165] The Respondents submit that Robson's role as portfolio manager of CHF provided an added layer of review of the Fairway Transaction and the Citadel Acquisition. We made the following statements in the Merits Decision as to the appointment of Robson as portfolio manager:

[363] CHCC had a fundamental conflict of interest in making the decision to appoint Robson because that decision was made in order to facilitate a $1.0 million loan by CHF to CHCC Holdco. While the independent directors of CHCC and the IRC were aware that the change in portfolio manager was to facilitate the Fairway Loan, it does not appear that the relevant issues relating to the change in portfolio manager were fully considered and addressed by either the independent directors of CHCC or the IRC. There is no indication in the minutes of the CHCC Board or IRC meetings that either the independent directors of CHCC or the IRC addressed the question of whether the appointment of Robson was in the best interests of CHF and its unitholders and, in particular, considered Robson's qualifications to be portfolio manager. Allen testified that he did not recall the CHCC Board considering Robson's expertise. For his part, Pushka testified that he was satisfied with Shaul's skills and expertise. He also stated, however, that "I don't think he had as much experience as I would have liked."

[364] While Robson entered into the Fairway Loan Agreement on behalf of CHF, it is clear that CHCC and Pushka made the decision to cause CHF to make that loan, established the terms of the loan, and caused Robson to be appointed as portfolio manager in order to permit it.

[365] The decision by CHCC to appoint Robson as portfolio manager of CHF was not a decision made in the normal course of business. It had nothing to do with ensuring that CHF received expert portfolio management advice from an experienced portfolio manager. It was an action taken for the sole purpose of permitting a related party transaction between CHF and CHCC Holdco, an affiliate of the IFM of CHF. Accordingly, the discretion of CHCC as IFM under the CHF Declaration of Trust to appoint Robson as portfolio manager was not exercised for the purpose for which it was granted.

[366] We find that the appointment by CHCC of Robson as portfolio manager of CHF in these circumstances was an action taken by CHCC in bad faith. As a result, we find that the appointment of Robson and the entering into of the Fairway Loan in these circumstances was contrary to and breached CHCC's duty to act in good faith and in the best interests of CHF, contrary to section 116(a) of the Act.

(Merits Decision at paras. 363 to 366)

[166] We made the following statements in the Merits Decision as to Robson's role in the Citadel Acquisition:

[540] Pushka testified that Shaul accompanied him to Alberta to negotiate the Citadel Acquisition and that Pushka would not have proceeded if Shaul had objected to the transaction. We note, in this respect, that in an e-mail dated May 16, 2009 from Julie Mansi [of BLG] to Shaul, which was copied to Page, it was stated that "[w]e understand that Robson as the investment adviser does in fact believe that the Citadel transaction (including the funding of CH LP) is in the interests of the unitholders of Crown Hill Fund and the merged fund …" That is, however, different than saying that Robson, as portfolio manager of the CHF, made an independent investment decision to have CHF invest more than 60% of its assets in the rights to the Citadel Management Agreements. That was clearly not the case.

[541] It is quite telling that the portfolio manager of CHF would take the position that it had not expressly approved the Citadel Acquisition.

> [542] In any event, it is clear that CHCC and Pushka made the decisions to cause CHF to enter into the Citadel Acquisition and to propose the Reorganization. Pushka was the driving force behind those transactions and he negotiated and caused them to be carried out.
>
> (Merits Decision at paras. 540 to 542)

[167] In the result, Robson's role is not a significant mitigating factor in our consideration of the sanctions that should be imposed on the Respondents.

(x) Legal Advice

[168] The Respondents submit that the transactions that were at issue in this matter, in particular, the Fairway Transaction and the Citadel Acquisition, were the subject of detailed legal advice and due diligence by two of Canada's leading corporate law firms.

[169] The Respondents urge the Commission to consider as a mitigating factor CHCC's reliance on the detailed legal advice that was received with respect to the design and implementation of the Fairway Transaction and the Citadel Acquisition, and the compliance of those transactions with Ontario securities law. As a result, the Respondents submit that they did not willfully breach Ontario securities law or act in bad faith in connection with those transactions.

[170] Staff submits, however, that Pushka was the President and Chief Executive Officer and a director of CHCC, which he wholly owned directly or indirectly. Staff says that Pushka initiated, caused to be carried out and directed all of the actions and transactions involving CHCC, its affiliates and CHF (and its predecessors) described in the Merits Decision. Pushka alone instructed legal counsel and communicated legal advice obtained from legal counsel to the CHCC Board and the IRC in connection with the Citadel Acquisition.

[171] We concluded in the Merits Decision that it was reasonable, given Stikeman's expertise, for CHCC and the members of the CHCC Board to rely on Stikeman's legal advice that the Fairway Transaction and the Citadel Acquisition complied with applicable Ontario securities law (Merits Decision at para. 604). However, we also concluded that Stikeman's legal advice did not extend to the question of whether CHCC complied with its fiduciary duty in approving and carrying out the Fairway Transaction and the Citadel Transaction (Merits Decision at paras. 611 and 605). We concluded that "… the fact that CHCC obtained legal advice from Stikeman is some evidence that supports the submission that CHCC acted in good faith and with due care in connection with the approval and implementation of the Fairway Transaction and the Citadel Transaction. We set out our conclusions as to whether CHCC complied with its fiduciary duties in connection with those transactions elsewhere in these reasons" (Merits Decision at para. 614).

[172] Accordingly, CHCC's reliance on legal advice is a mitigating consideration in imposing sanctions but is not a significant factor given CHCC's multiple breaches of its fiduciary duty and the fact that the legal advice obtained did not extend to CHCC's compliance with its fiduciary duty.

(xi) Respondents' Experience in the Marketplace

[173] A registrant is held to a higher level of ethical conduct and is expected to have a higher level of awareness of its responsibilities than a non-registrant (*Re Rowan* (2009), 33 OSCB 91 at para. 145 ("***Rowan***")).

[174] Pushka was the President and Chief Executive Officer and a director of CHCC, which he wholly-owned directly or indirectly. He was also registered with the Commission as an Investment Counsel and Portfolio Manager and had been registered in that capacity since at least 2006. In addition to his role at CHCC, Pushka was the director and sole officer of CHAM, which was the registered portfolio manager of CHF and its predecessor funds until it was replaced by Robson.

[175] Pushka testified that he knew that CHCC, as IFM, had fiduciary obligations under section 116 of the Act and knew what those duties were. As both registrants and fiduciaries, CHCC and Pushka must be held to the highest standard of ethical conduct.

(xii) Respondents' Recognition of the Seriousness of their Misconduct

[176] Staff submits that Pushka and, through his direction and control, CHCC have demonstrated utter disregard for Ontario securities law and investors and that Pushka, in particular, has failed to recognize the seriousness of his misconduct. We agree that Pushka has failed to acknowledge the seriousness of CHCC's contraventions of Ontario securities law found in the Merits Decision.

(xiii) Restraints on the Ability to Participate in the Capital Markets

[177] Staff submits that the Respondents' conduct has been so harmful to Ontario capital markets and investors that they should be permanently prevented from future participation in those markets in any capacity. Staff says that the gravity of the Respondents' conduct in this matter, and the risk to the public, warrant the sanctions proposed by Staff. Staff notes that the Divisional Court has held that "[p]articipation in the capital markets is a privilege, not a right" (*Erikson, supra,* at paras. 55-56). That is undoubtedly the case.

[178] While the Respondents' conduct was unacceptable, we do not believe it requires permanent market conduct prohibitions provided the amounts we order for disgorgement, administrative penalties and costs are paid by the Respondents. We discuss the issue of the appropriate market conduct prohibitions commencing at paragraph 238 of these reasons.

C. DISGORGEMENT

(i) The Disgorgement Remedy

[179] The Commission has the authority pursuant to subsection 127(1)10 of the Act to order disgorgement of "any amounts obtained as a result of the non-compliance" with Ontario securities law. The question of disgorgement is one of the most important issues addressed in these reasons because of the large amounts that Staff submits should be disgorged by the Respondents. Addressing disgorgement is complicated by the complex nature of the events and transactions in this matter and because of the period of time that has passed since the breaches by CHCC of its fiduciary duty.

[180] The disgorgement remedy is designed to (i) ensure that respondents do not obtain financial benefits from their non-compliance with Ontario securities law; and (ii) satisfy the goals of specific and general deterrence (see our general conclusions as to disgorgement commencing at paragraph 108 of these reasons).

[181] In *Limelight,* the Commission held that, in considering disgorgement, the Commission should consider the factors referred to in paragraph 90 of these reasons as well as other relevant sanctioning factors such as those referred to in paragraph 89 of these reasons. In *Limelight*, the Commission considered the scope and interpretation of the phrase "any amounts obtained as a result of the non-compliance" contained in subsection 127(1)10 of the Act. The Commission stated:

> We note that paragraph 10 of subsection 127(1) of the Act provides that disgorgement can be ordered with respect to "any amounts obtained" as a result of non-compliance with the Act. Thus, the legal question is not whether a respondent "profited" from the illegal activity but whether the respondent "obtained amounts" as a result of that activity. In our view, this distinction is made in the Act to make clear that all money illegally obtained from investors can be ordered to be disgorged, not just the "profit" made as a result of the activity. This approach also avoids the Commission having to determine how "profit" should be calculated in any particular circumstance. Establishing how much a respondent obtained as a result of his or her misconduct is a much more straightforward test.
>
> *(Limelight, supra,* at para. 49)

[182] The reasoning in *Limelight* is consistent with the principles articulated in *Allen (Re)* (2006), 29 OSCB 3944 ("***Re Allen***") at paras. 35-37. In that case, the respondent argued that he did not, as alleged, make $600,624 in profit because of the costs of the offering and the commissions paid to salespeople. The Commission held that the Act permits the Commission to "order disgorgement of the gross amount obtained" because to restrict any disgorgement order to the net amount "would reduce the deterrent effect of the disgorgement sanction" (*Re Allen,* at paras. 36 and 37).

[183] In *Sextant,* the respondents were held to have breached their duties as IFMs under section 116 of the Act and three of the respondents were held to have breached section 126 of the Act by committing fraud. Staff submitted in *Sextant* that "while staff could properly request disgorgement of the whole amount obtained [from] investors, so the whole $23 million, staff has confined its request to the profits in this case" (*Sextant, supra,* at para. 28). In that case, the Commission ordered disgorgement of the management and performance fees paid by Sextant to Spork as IFM in the amount of $6.35 million (the net amount after a reduction for amounts actually collected by a receiver). In addition to disgorgement, Spork was ordered to pay an administrative penalty of $1.0 million (see paragraph 105 of these reasons). Two other individual respondents were required to disgorge the bonuses they received notwithstanding submissions that the bonuses were employment related and not tied to the performance of the fund or to the particular non-compliance.

[184] *Sextant* stands for the proposition that an IFM can be ordered to disgorge management and performance fees obtained as a result of a breach of its fiduciary duty under section 116 of the Act. We agree with that conclusion.

(ii) The Payments Summary

[185] The Payments Summary prepared by Staff (attached as Schedule B to these reasons) shows the direct and indirect amounts received by CHCC and related entities during the Relevant Period. The Payments Summary was prepared by Staff to assist us in determining the amounts obtained by the Respondents as a result of CHCC's non-compliance with its fiduciary duty and the amounts, if any, that we should order disgorged by the Respondents.

[186] The nature and calculation of the amounts reflected in the Payments Summary were not disputed by the Respondents, although they submitted, among other things, that this was not an appropriate case for ordering any disgorgement at all, that the various amounts identified by Staff were too remote as a matter of causation to be treated as amounts obtained by the Respondents as a result of their non-compliance with the Act and that, in any event, intervening events such as various unitholder approvals, and the effluxion of time, have broken any causal link between the amounts obtained and the particular non-compliance (see the discussion of causation commencing at paragraph 197 below). The Respondents submit that events occurring subsequent to June 9, 2009 undermined any "tenuous causal connection" between the financial benefits obtained by CHCC and the misconduct that we found in the Merits Decision.

[187] The Payments Summary shows that:

(a) management fees paid by CHF and the relevant Citadel Funds to CHCC or related entities during the Relevant Period aggregated $10,597,564 (after deducting the estimated fees that CHCC would have received from MACCs and CHDF for the period 2009 to 2012);

(b) break fees, termination fees, unitholder redemption fees and the Facilitation Fee paid to CHCC during the Relevant Period aggregated $35,620,386; and

(c) other amounts applied in repayment of the Fairway Loan and the discharge of the CHCC Note amounted to $7,588,788.

[188] Accordingly, Staff submits that the total amounts obtained by CHCC over the Relevant Period as a result of its contraventions of its fiduciary duty in connection with the Citadel Acquisition amounted to $53,806,738. Staff then deducts from that amount $29,853,904, representing amounts obtained by CHCC that were applied to repay the Fairway Loan and to discharge the CHCC Note. Accordingly, Staff submits that we should order the Respondents to disgorge, on a joint and several basis, $23,952,833, being the aggregate amount obtained by the Respondents net of amounts applied to repay the Fairway Loan and to discharge the CHCC Note.

(iii) Amounts Obtained by the Respondents

[189] We have the discretion to order disgorgement of the gross amounts obtained by a respondent as a result of the respondent's non-compliance with the Act (subsection 127(1)10 of the Act). The words "amount obtained" should be interpreted in a purposive manner consistent with the policy objectives of the Act. The principle of purposive statutory interpretation is to consider a provision in its entire context and its grammatical and ordinary sense, harmoniously with the scheme of the relevant act (*Re Rizzo & Rizzo Shoes Ltd*., [1998] 1 S.C.R. 27 at para. 21).

[190] We should order the amount of disgorgement that we find to be in the public interest in the circumstances. That means that we have the discretion to decide whether to order any disgorgement at all and whether, in fairness, there should be any deductions made from the gross amounts otherwise obtained by a respondent.

[191] In addition to determining what amounts were "obtained" by a respondent, we must also determine whether those amounts were obtained "as a result of the [respondent's] non-compliance" with Ontario securities law (within the meaning of subsection 127(1)10 of the Act). That requires us to determine the question of causation: were the particular amounts obtained as a result of the respondent's non-compliance with Ontario securities law? We discuss the issue of causation commencing at paragraph 197 below.

[192] The Commission has accepted the general principle that a person should not benefit or profit from breaches of Ontario securities law (see the discussion commencing at paragraph 108 of these reasons). If CHCC is permitted to benefit financially from its breaches of fiduciary duty, others may not be deterred from similar misconduct, particularly when the potential financial benefits from such breaches can be so large.

[193] While that is a principle we endorse, we nonetheless recognize that (i) ordering disgorgement is a matter for our discretion to be exercised in light of all the circumstances; (ii) there are a number of relevant factors we must consider in making any such order (including those discussed commencing at paragraph 115 of these reasons); and (iii) our legal authority under the Act is to order disgorgement of "amounts obtained" by a person "as a result of the [person's] non-compliance" with Ontario

securities law. With respect to clause (iii), not all benefits obtained by a person as a result of a contravention of Ontario securities law may represent such amounts.

[194] Accordingly, we are entitled to determine the amounts obtained by CHCC and Pushka as a result of their non-compliance with Ontario securities law without adjusting for how CHCC may have applied those amounts or determining what its "profits" may have been in the circumstances.

[195] In this case, CHCC obtained the amounts set out in the Payments Summary referred to in paragraph 187 above. *Accordingly, as a threshold matter, we have the legal authority to order all of those amounts, aggregating $53,806,738, to be disgorged*.

[196] However, CHCC submits, among other things, that such amounts are too remotely connected to CHCC's contraventions of Ontario securities law and that intervening events and the effluxion of time have broken any causal link that might otherwise have existed.

(iv) Causation

[197] The Supreme Court of Canada has recognized that causation and remoteness should be considered when assessing whether and to what extent disgorgement (or an accounting of profits) ought to be ordered in cases involving a breach of fiduciary duty (*Canson Enterprises Ltd.* v. *Boughton & Co.,* [1991] S.C.J. No. 91 ("***Canson***")). In *Strother*, the Court noted that "… a "cut off" is appropriate in this case as well. At some point, the intervention of other events and actors (as well as the behaviour of the claimant) dissipates the effect of the breach …" (*Strother, supra,* at para. 90).

[198] Staff submits that CHCC's misconduct in this case was intended to obtain long-term management and other fees and benefits, and that such fees and benefits were in fact obtained by CHCC over the approximately three and a half-year period following the Citadel Acquisition. Staff says that "but for" CHCC's breach of its fiduciary duty in causing CHF to complete that transaction, CHCC would not have obtained the amounts set out in the Payments Summary. Staff also submits that, in any event, the Commission has already found that CHCC was not itself able to finance the acquisition of the rights to the Citadel Management Agreements (for a consideration of $28 million). Accordingly, CHCC would not have been able to obtain any of the amounts set out in the Payments Summary because the Citadel Acquisition would not have occurred. We agree with those submissions.

[199] The Respondents submit, however, that the 'but for' analysis is insufficient because it ignores the assessment of whether CHCC's non-compliance was a "proximate cause" of CHCC obtaining the relevant amounts (*Canson, supra,* at page 94). The Respondents point to the following events that they say break the chain of events:

(a) Staff intervened in the Reorganization in June 2009, and that reorganization did not proceed as originally contemplated;

(b) in July 2009, Brompton and Bloom attempted pursuant to the Blue Ribbon Proposal to take over management of the Citadel Funds. This action caused several other events, including the holding of three additional unitholder meetings and the creation of the Blue Ribbon Fund for which CHCC was not IFM;

(c) on September 30, 2009, unitholders of CHF approved the Divestiture at the September 2009 Meeting (see paragraph 206 below). The Respondents submit that, at that meeting, unitholders had before them all of the relevant facts relating to the Citadel Acquisition, including Staff's objections to that transaction. The Respondents submit that, as a result of the votes at that meeting, unitholders freely chose the structure and management of the continuing funds;

(d) in 2011, CIF and EIF issued warrants to purchase additional units pursuant to a prospectus filed with the Commission and a substantial number of those warrants were exercised (see paragraph 202 below);

(e) at the August 2012 Meetings, the unitholders of CIF and EIF each approved a special resolution amending the relevant declarations of trust to add certain unitholder rights, to authorize a special right of redemption at 95% of NAV and to authorize payments to CHCC on its termination or resignation as IFM (see paragraph 139 of these reasons); and

(f) on December 19, 2012, the unitholders of CIF approved the appointment of Artemis as IFM of CHF and the granting of a further special redemption right. Similarly, on January 2, 2013, the unitholders of EIF approved the appointment of Artemis as IFM and the granting of a similar special redemption right.

[200] It is worth noting in considering the Respondents' submissions in paragraph 199 above that:

(a) Staff intervened in the Reorganization proposed in June 2009 because of its concerns with respect to CHCC having caused CHF to enter into the Citadel Acquisition; the Citadel Acquisition was one of the principal focuses of the Merits Hearing;

(b) the Blue Ribbon Proposal (referred to in paragraph 199(b) above) was a proposal competing with CHCC's attempt to cause at least eight of the Citadel Funds to merge with CHF pursuant to the Reorganization; those mergers were contemplated by, and were a key element of, the Citadel Transaction; the uncertainty about whether those mergers would actually occur was a significant risk that we held in the Merits Decision should not have been imposed on CHF unitholders; and

(c) the Divestiture arose directly from the Citadel Acquisition and constituted a restructuring of CHF's investment pursuant to the Citadel Acquisition in the rights to the Citadel Management Agreements; that restructuring was in response to Staff's concerns with respect to that transaction.

Accordingly, the events referred to in clauses (a), (b) and (c) above were all directly connected to CHCC's breach of fiduciary duty in connection with the Citadel Acquisition.

[201] We have discussed our views with respect to the effect of the approvals by unitholders given at the September 2009 Meeting and the August 2012 Meetings commencing at paragraph 132 of these reasons and we have reached the conclusions with respect to the unitholder approvals given at those meetings in paragraphs 151 and 211 of these reasons. We also note that, as a result of the change in IFM referred to in paragraph 199(f), CHCC obtained the termination fees and the Facilitation Fee referred to in paragraph 213 of these reasons.

[202] On September 23 and 26, 2011, CHCC filed short form prospectuses for warrant offerings of each of CIF and EIF. CIF received net proceeds from its warrant offering of $95,907,119 and EIF received net proceeds from its warrant offering of $31,194,619. Those distributions increased the assets of the two funds by more than 50%. The warrant offerings were subsequent events that had the effect of increasing the NAV of CIF and EIF (and therefore increasing the management, termination and other fees payable to CHCC). We have not adjusted the amount we order to be disgorged in paragraph 221 of these reasons as a result of the net proceeds from the warrant offerings. There were a number of other events during the Relevant Period that may have significantly affected the NAV of CIF and EIF. We have concluded that such changes in NAV do not undermine or negate the causal connection between CHCC's breach of fiduciary duty and the payment of the amounts set out in the Payments Summary.

[203] CHCC caused CHF to enter into the Citadel Acquisition in breach of CHCC's fiduciary duty to CHF. CHCC acquired the rights to the Citadel Management Agreements as a result of the restructuring of the Citadel Acquisition in response to Staff's concerns with that transaction. CHCC received termination fees paid by CIF and EIF, and the Facilitation Fee, when it disposed of its interest in the rights to the Citadel Management Agreements to Artemis and ceased to be IFM of CIF and EIF. *Accordingly, CHF funded the purchase of the rights to the Citadel Management Agreements in the first instance and CIF and EIF paid substantial termination fees to CHCC when those rights were disposed of and CHCC ceased to be IFM of CIF and EIF* (see paragraph 213 of these reasons). In our view, CHCC should not be permitted to benefit from that disposition. It is common sense that the receipt by CHCC of those termination fees and the Facilitation Fee was causally connected to CHCC's breach of fiduciary duty in causing CHF to enter into the Citadel Acquisition. But for that transaction, CHCC would not have become the IFM of CHF and its successors and would not have received those fees.

[204] Accordingly, we find that the amounts received by the Respondents as reflected in the Payments Summary flowed directly from, and are causally connected to, CHCC's breach of its fiduciary duty in connection with the Citadel Acquisition. But for CHCC's breach of its fiduciary duty, the amounts identified in the Payments Summary would not have been paid to or obtained by CHCC. The breach by CHCC of its fiduciary duty is the proximate cause of the payment to CHCC of the amounts set out in the Payments Summary.

[205] We find that the amounts obtained by the Respondents reflected in the Payment Summary, amounting to $53,806,738, are causally connected to the breaches by CHCC of its fiduciary duty in connection with the Citadel Acquisition. In our view, the payment of those amounts is not so remote as to break the chain of causation between the contravention by CHCC of its fiduciary duty and the payment of those amounts. We find that none of the events referred to in paragraph 199 of these reasons (including the unitholder approvals), the effluxion of time or any other intervening event, broke that chain of causation.

(v) Unitholder Approval of the Divestiture

[206] Unitholders of CHF approved the Divestiture by resolution passed at the September 2009 Meeting and, in connection with their approval of that transaction, unitholders were given the Special Redemption Right that permitted them to redeem their units at 97% of the NAV (see paragraph 19 of these reasons). The circular for the meeting indicated that the 3% discount to NAV reflected CHCC's "best estimate of the benefits realized from the Citadel Acquisition until the date of redemption" and

accordingly was "the obligation of such redeeming unitholders to remaining unitholders of the Continuing Fund in respect of payment for the Citadel Acquisition" (CHF Management Information Circular dated August 27, 2009 under "Cash Alternative").

[207] With respect to the Special Redemption Right, we note that the proxy circular dated September 8, 2009 issued by Brompton and Bloom in connection with the Blue Ribbon Proposal (see paragraph 13 of these reasons) stated under "Why Are We Making the Blue Ribbon Proposal" that:

> On June 4, 2009, Crown Hill Capital Corp. ("Crown Hill Capital") announced that a fund it manages, Crown Hill Fund, had acquired the administration contracts for the Citadel Group of Funds. It was their intention to merge the Citadel Funds and other funds in the Citadel Group of Funds, without unitholder approval, into the Crown Hill Fund. Crown Hill Fund does not have a 100% of net asset value ("NAV") redemption right, and, as of June 2, 2009, it was trading at a 26% discount to its NAV per unit.

Accordingly, the Special Redemption Right would have been an important element of the Divestiture to unitholders and a significant inducement to approve it.

[208] The CHF unitholders were also given a special redemption right exercisable in November 2010 at an amount equal to NAV, less any costs or expenses including "any amounts relating to any contractual obligations entered into by the Continuing Fund". In order to exercise that redemption right, a redeeming unitholder had to tender one CHF warrant for each unit to be redeemed.

[209] The Divestiture constituted the restructuring of the CHF investment in the rights to the Citadel Management Agreements in response to Staff's concerns. In connection with the Divestiture, the rights to the Citadel Management Agreements were transferred to CHCC in consideration for a cash payment to CHF of $18,690,000 and the issuance by CHCC to CHF of the CHCC Note in the amount of $9,955,000. The cash payment and the CHCC Note represented an amount of $28,645,000, somewhat more than the original purchase price of $28 million paid by CHF for the rights to the Citadel Management Agreements. We assume that $645,000 of that amount represented the payment of interest on the CHCC Note. We note that the Citadel Transaction originally contemplated a Preferred Return to CHF which included a $4.0 million payment and 6% interest. It does not appear that the $4.0 million amount was reflected in the consideration to CHF from the Divestiture.

[210] The unitholder approval given at the September 2009 Meeting consisted of passing a single resolution in one vote approving a number of matters, including the mergers of one or more Citadel Funds with CHF, the Divestiture, the creation of the Special Redemption Right, and multiple amendments to the CHF Declaration of Trust that were generally beneficial to unitholders. Approving all of those matters in a single vote on one resolution raises the obvious question whether unitholders effectively or validly approved the Divestiture as a free standing transaction. We note that, in the circumstances, unitholders may have had little choice but to approve the Divestiture given that the Citadel Acquisition had already occurred. Further, unitholders would only have obtained the benefit of the Special Redemption Right if the Divestiture was approved and completed.

[211] Whatever our views may be on the matters referred to in paragraph 210 above, it seems to us that CHF unitholder approval of the Divestiture at the September 2009 Meeting, together with the grant of the Special Redemption Right, are matters to which we should give some weight in deciding whether CHCC should be required to disgorge all of the management fees it received during the Relevant Period as shown on the Payments Summary (reflected on lines 1 to 10 of the Payments Summary). We note, in particular, that a very substantial portion of the management fees paid was applied to the discharge of the CHCC Note.

(vi) No Disgorgement of Management Fees

[212] In the circumstances, for the reasons set out in paragraph 211 above, we have concluded that CHCC should not be required to disgorge the management fees it received during the Relevant Period as shown on the Payments Summary.

(vii) Disgorgement of Termination and Other Fees

[213] CHCC also received the following fees during the Relevant Period in connection with its role as IFM of CIF and EIF or upon CHCC resigning as IFM for those funds:

Description	Paid by	Paid To	Nature/Time Period for Payment	Amount
18. CIF redemption fee per unit of 5% x NAV	CIF redeeming unitholders	CHCC	August 9, 2012 to 31-Dec-12	$5,001,165
19. EIF redemption fee per unit of 5% x NAV	EIF redeeming unitholders	CHCC	August 9, 2012 to 31-Dec-12	$1,597,727
20. Termination fees for change of manager to Artemis	CIF	CHCC	January 2013	$5,351,944
21. Termination fees for change of manager to Artemis	EIF	CHCC	January 2013	$2,550,602
22. Facilitation fee for arranging the resignation of CHCC	CIF & EIF[3]	Triple Two[4]	January 2013	$3,735,609
				$18,237,047

(These fees are reflected in lines 18 to 22 of the Payments Summary.)

[214] Termination fees are paid by a fund to its IFM, if the IFM is terminated, as compensation for ceasing to be IFM and for no longer being able to receive management fees. We do not know whether comparable fees are typically paid for that purpose when an IFM voluntarily resigns. CHCC stated in the CIF Circular that the termination or resignation fee to which CHCC would be entitled "represents a recapture by the Manager of the significant long-term investment it has had to undertake to act as manager of the Fund, for which it would have been reimbursed in the normal course had the Manager remained the manager [*sic*] of the Fund" (CIF Circular under "Amendments to Provisions related to Resignation or Removal of a Manager"). There is no evidence before us of any such long-term investment by CHCC. Further, we held in the Merits Decision that CHCC benefited disproportionately from the Citadel Acquisition relative to the potential benefits to unitholders and the risks that investment imposed on them. The payment of termination fees by CIF or EIF on the resignation of CHCC substantially reduced the NAV of those funds. Accordingly, those fees came directly out of the pockets of unitholders.

[215] We note that all of the fees referred to in paragraph 213 above, other than the Facilitation Fee, were paid by CIF or EIF, or by unitholders of CIF and EIF on the redemption of their units. All those fees were paid to CHCC. The Facilitation Fee was paid by Artemis to Triple Two, an affiliate of CHCC. Accordingly, the Facilitation Fee was not paid out of the assets of CIF or EIF.

[216] In our view, the amounts referred to in paragraph 213 above are all amounts obtained by CHCC as a result of its non-compliance with Ontario securities law. They are amounts purportedly paid to compensate CHCC for ceasing to be the IFM of CIF or EIF or for the reduction in NAV of those funds as a result of redemptions of units by unitholders. The Facilitation Fee was paid by Artemis to Triple Two for having caused the resignation of CHCC as IFM of CIF and EIF and was therefore directly related to CHCC's resignation as IFM. CHCC would not have obtained those amounts, including the Facilitation Fee, if the Citadel Acquisition had not occurred (see paragraphs 203 and 204 above). In our view, it is appropriate and in the public interest to order disgorgement by CHCC of all of those amounts. Further, in our view, there should be no deductions made from those amounts.

[217] We recognize that the termination fees and the Facilitation Fee referred to in paragraph 213 above were paid approximately three years and seven months after the completion of the Citadel Acquisition, the event constituting CHCC's breach of fiduciary duty. That fact does not change our conclusion. We are not saying that the effluxion of time and intervening events would never break the chain of causation arising from a contravention of Ontario securities law. We accept that there must be some appropriate cut-off date. We are simply saying that, in the circumstances of this case, those factors did not break the chain of causation.

[218] The redemption and termination fees referred to in paragraph 213 above were paid by CIF or EIF or their unitholders pursuant to the relevant declarations of trust permitting such payments. Amendments to those declarations of trust permitting such payments were approved by resolutions of unitholders of each fund given at the August 2012 Meetings (discussed commencing at paragraph 139 of these reasons). As discussed above, we have found that those unitholder approvals did not break the causal link between the contraventions by CHCC of its fiduciary duty in connection with the Citadel Acquisition and the payment of those fees.

[3] While payment of this fee by CIF and EIF is shown on the Payment Summary, we have treated that fee as having been paid by Artemis and not by CIF or EIF.

[4] Triple Two is an affiliate of CHCC.

[219] We note that we are not requiring to be disgorged any of the management fees obtained by CHCC as a result of the Citadel Acquisition, any amounts obtained by the Respondents as a result of the Fairway Transaction or the $2,129,471 received by CHAM and First Paladin (entities wholly-owned by Pushka) for their respective portfolio management and back office administration services to CHF and to the various Citadel Funds.

[220] We also note that we have not included in the amount to be disgorged, break fees or termination fees paid by Citadel Funds in the amount of $17,383,338. That amount is the aggregate of the fees reflected in lines 13 to 17 of the Payments Summary.

(viii) Disgorgement Ordered

[221] Based on the foregoing, we order CHCC and Pushka to disgorge to the Commission, on a joint and several basis, pursuant to subsection 127(1)10 of the Act, $18,237,047, being amounts they obtained as a result of their contraventions of Ontario securities law in connection with the Citadel Acquisition. The aggregate amount ordered disgorged consists of the fees set out in paragraph 213 of these reasons.

D. ADMINISTRATIVE PENALTIES

(i) Analysis

[222] Staff seeks an order that the Respondents pay administrative penalties in the aggregate minimum amount of $2.1 million (see paragraph 51(k) of these reasons).

[223] In imposing an administrative penalty on the Respondents, we have considered the factors referred to in paragraph 89 and the other considerations discussed in these reasons.

[224] In *Rowan Appeal*, the Ontario Court of Appeal upheld the constitutionality of section 127(1)9 of the Act which allows the Commission, if in its opinion it is in the public interest, to order an administrative penalty of not more than $1.0 million for each failure by a person to comply with Ontario securities law. The Court of Appeal stated:

> Penalties of up to $1 million per infraction are, in my view, entirely in keeping with the Commission's mandate to regulate the capital markets where enormous sums of money are involved and where substantial penalties are necessary to remove economic incentives for non-compliance with market rules. The recommendation of the *Securities Act* Five Year Review Committee that the Commission be given the power to impose administrative penalties of up to $1,000,000 per contravention was based on the need to ensure that the administrative penalty would not simply be viewed as a "cost of doing business" or a "licensing fee" for unscrupulous market participants: Ontario, *Five Year Review Committee Final Report: Reviewing the Securities Act (Ontario)* (Toronto: Queen's Printer, 2003), at p. 214. The Committee noted the importance of allowing "the Commission to send an appropriate deterrent message, having regard to, among other things, the gravity and impact of the conduct under consideration and the nature of the respondents that are the subject of the proceedings."
>
> (*Rowan Appeal, supra,* at para. 49)

[225] The Court of Appeal in *Rowan Appeal* upheld the Commission's administrative penalties of $1,220,000, among other sanctions, noting the large number of infractions for failing to file insider trading reports involving over a billion dollars' worth of securities and the over $2.0 million earned in commissions (*Rowan Appeal, supra,* at para. 55).

[226] In *Biovail Corp*, the Commission approved a settlement with a corporate respondent and held that administrative penalties totaling $5.0 million were appropriate given the multiple breaches of the Act. The decision focused on deterrence, citing the following statement made in *Limelight:*

> The purpose of an administrative penalty is to deter the particular respondents from engaging in the same or similar conduct in the future and [sends] a clear deterrent message to other market participants that the conduct in question will not be tolerated in Ontario capital markets.
>
> *(Biovail Corp, (Re)* (2009), 32 OSCB 1094 at paras. 46 and 50)

[227] A disgorgement order alone is not sufficient deterrence because, as recognized by the Supreme Court of Canada, "this would encourage people in his [the fiduciary's] position to in effect gamble with other people's money, knowing that if they are discovered they will be no worse off than when they started" (*Hodgkinson, supra,* at para. 93). In this case, CHCC and Pushka were gambling with other people's money and benefited substantially from doing so. That is the most important factor in considering the imposition of administrative penalties in this matter.

[228] In our view, simply ordering disgorgement of amounts obtained by CHCC is not sufficient deterrence. There must be administrative penalties of a substantial amount in order to remove the economic incentive for misconduct and to deter others.

(ii) Conclusions

[229] We order that CHCC and Pushka pay to the Commission, on a joint and several basis, the following administrative penalties:

(a)	for CHCC acting contrary to and breaching its fiduciary duty under subsection 116(a) of the Act by making certain amendments to the MACCs Declaration of Trust (see paragraph 639(a) of the Merits Decision):	$250,000
(b)	for CHCC acting contrary to and breaching its fiduciary duty under subsection 116(a) of the Act by (i) making the changes to the rights of CHDF unitholders referred to in paragraph 275 of the Merits Decision by means of the merger of CHDF with MACCs; and (ii) failing to appropriately address the conflicts of interest arising in connection with that merger (see paragraph 639(b) of the Merits Decision):	$250,000
(c)	for CHCC acting contrary to and breaching its fiduciary duty under subsection 116(a) of the Act by causing CHF to make the Fairway Loan (see paragraph 639(c)(i) of the Merits Decision):	$250,000
(d)	for the June 09 Circular being materially misleading and failing to provide sufficient information to permit a reasonable CHF unitholder to make an informed judgment whether to vote to approve the Reorganization (see paragraph 639(d) of the Merits Decision):	$100,000
(e)	for CHCC acting contrary to and breaching its fiduciary duty under subsection 116(a) of the Act by (i) causing CHF to enter into the Citadel Acquisition and by proposing the Reorganization (see paragraph 639(c)(ii) of the Merits Decision); and (ii) breaching Section 5.2(1) of the CHF Declaration of Trust (see paragraph 639(e) of the Merits Decision):	$1,000,000
(f)	for CHCC failing to have written policies and procedures to address matters such as the Fairway Loan and the Reorganization (see paragraph 639(f) of the Merits Decision):	$25,000
	Total Administrative Penalty:	$1,875,000

[230] We note that the matters referred to in paragraphs 229(a), (b), (c) and (e) above all involved a breach by CHCC of its fiduciary duty.

[231] We have imposed a substantially higher administrative penalty with respect to the Citadel Acquisition (paragraph 229(e) above) relative to the administrative penalty imposed in respect of the Fairway Loan (paragraph 229(c) above) for the following reasons: (i) the amount of the investment in the rights to the Citadel Management Agreements was substantially larger ($28 million invested pursuant to the Citadel Acquisition compared to $1.0 million for the Fairway Loan); (ii) the risks to CHF from the Citadel Acquisition were much greater; and (iii) there were more relative benefits to unitholders from the Fairway Transaction. We have imposed a combined administrative penalty in respect of the Citadel Acquisition and the breach of the CHF declaration of trust referred to in paragraph 229(e) above, because both of those contraventions arose from the same transaction.

[232] We have imposed a lower administrative penalty in paragraph 229(d) above because the Reorganization did not proceed as a result of the intervention of Staff.

[233] It is the Commission's practice to impose a total amount for administrative penalties that "takes into account the specific conduct of each respondent, the unique circumstances of the case, any aggravating or mitigating factors and the level of administrative penalties imposed in similar cases" (*In the Matter of Franklin Danny White et al* (2010) 33 OSCB 8893 at para. 50).

[234] While we recognize that the total amount imposed as an administrative penalty must be appropriate and proportionate in terms of the overall sanctions imposed, we consider it useful to have set out in paragraph 229 above the amounts of administrative penalties we impose in respect of the various breaches of Ontario securities law involved in this matter. That may be useful in understanding our overall order for administrative penalties of $1,875,000.

[235] The Respondents have submitted that Pushka was not given an opportunity to respond in his testimony to the question of whether he misled the CHCC Board or the IRC. Whether or not he did so did not affect our conclusions as to the appropriate sanctions in the circumstances.

[236] In imposing these administrative penalties, we have considered all of the circumstances, including the mitigating factors and considerations identified in these reasons. Further, we have imposed administrative penalties only in respect of our specific findings set out in paragraph 639 of the Merits Decision. We note that, while the administrative penalties we impose are substantial, they are far less than the amounts we order to be disgorged.

[237] We find that these administrative penalties are proportionate to the conduct of CHCC and Pushka in this matter and are necessary to underscore the importance we place on IFMs complying with their fiduciary duty in managing investors' money. We find that these administrative penalties, together with our disgorgement order, are necessary to deter others from similar misconduct. Accordingly, we find that the imposition of these administrative penalties is in the public interest. In light of these conclusions, it is not necessary for us to impose sanctions with respect to the Respondents' conduct also having been contrary to the public interest.

E. MARKET CONDUCT PROHIBITIONS

[238] The sanctions we impose upon CHCC and Pushka in these reasons relate to CHCC's conduct as an IFM for publicly distributed investment funds and as a registrant under the Act. In addition to disgorgement and administrative penalties, Staff has requested permanent trading and related bans against the Respondents. We have concluded that 10-year prohibitions on Pushka being a director or officer of any reporting issuer, registrant or investment fund manager, or CHCC and Pushka from being a registrant, investment fund manager or a promoter, are appropriate in this case. Those prohibitions address the specific roles that CHCC and Pushka played in this matter. We have not imposed permanent bans primarily because this matter did not involve fraud or illegal distributions, because the Fairway Loan was repaid and the CHCC Note was ultimately discharged and because CHCC relied on legal advice to the extent set forth in the Merits Decision.

[239] These prohibitions should be extended until such time as CHCC and Pushka have paid all amounts of disgorgement, administrative penalties and costs imposed in these reasons. Further, because participation in our capital markets is a privilege, we also consider it to be in the public interest to impose prohibitions on CHCC and Pushka trading securities, acquiring securities or relying on prospectus exemptions until such time as the Respondents have paid all such amounts of disgorgement, administrative penalties and costs.

[240] Accordingly, we will order that:

(a) each of CHCC and Pushka cease trading in any securities or derivatives until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission in these reasons (pursuant to our authority under paragraph 2 of subsection 127(1) of the Act);

(b) each of CHCC and Pushka be prohibited from acquiring any securities until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission in these reasons (pursuant to our authority under paragraph 2.1 of subsection 127(1) of the Act);

(c) any exemptions in Ontario securities law not apply to CHCC or Pushka until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission in these reasons (pursuant to our authority under paragraph 3 of subsection 127(1) of the Act);

(d) Pushka be reprimanded (pursuant to our authority under paragraph 6 of subsection 127(1) of the Act);

(e) Pushka resign any positions he holds as an officer or director of any reporting issuer, registrant or investment fund manager (pursuant to our authority under paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act);

(f) Pushka be prohibited from becoming a director or officer of any reporting issuer, registrant or investment fund manager for a period of ten years from the date of these reasons, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid pursuant to these reasons (pursuant to our authority under paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act); and

(g) each of CHCC and Pushka be prohibited from becoming or acting as a registrant, an investment fund manager or a promoter for ten years from the date of these reasons, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid pursuant to these reasons (pursuant to our authority under paragraph 8.5 of subsection 127(1) of the Act).

VIII. COSTS

[241] Rule 18.2 of the Commission's *Rules of Procedure* provides that the Commission may consider the following factors in determining whether a respondent should be required to pay costs of an investigation and hearing under section 127.1 of the Act:

(a) whether the respondent failed to comply with a procedural order or direction of the Panel;

(b) the complexity of the proceeding;

(c) the importance of the issues;

(d) the conduct of Staff during the investigation and during the proceeding, and how Staff's conduct contributed to the costs of the investigation and the proceeding;

(e) whether the respondent contributed to a shorter, more efficient, and more effective hearing, or whether the conduct of the respondent unnecessarily lengthened the duration of the proceeding;

(f) whether any step in the proceeding was taken in an improper, vexatious, unreasonable, or negligent fashion or in error;

(g) whether the respondent participated in the proceeding in a way that helped the Commission understand the issues before it;

(h) whether the respondent participated in a responsible, informed and well-prepared manner;

(i) whether the respondent co-operated with Staff and disclosed all relevant information;

(j) whether the respondent denied or refused to admit anything that should have been admitted; or

(k) any other factors the Panel considers relevant.

(Ontario Securities Commission *Rules of Procedure,* Rule 18.2)

[242] Staff requested $467,648.70 for costs incurred in the investigation and hearing of this matter to be paid jointly and severally by the Respondents. Staff submitted a bill of costs supporting that amount. We accept that the costs and disbursements requested by Staff qualify as costs that can be required to be reimbursed by the Respondents.

[243] We note that the costs requested by Staff relate only to the time spent on the Merits Hearing by two litigation counsel and a Staff forensic accountant. Staff has provided time sheets with respect to the activities of those Staff members. Staff submits that the costs requested are conservative, well supported by the evidence and substantially less than the actual costs of approximately $962,000 incurred by the Commission in this matter.

[244] We determined the amount of costs to be awarded against the Respondents based on the following considerations.

[245] First, Staff was successful in establishing its allegations that the Respondents contravened Ontario securities law substantially as alleged by Staff in its Statement of Allegations.

[246] Second, a number of the issues discussed in the Merits Decision have not been expressly addressed in prior Commission decisions.

[247] Third, an award of costs is a matter in our discretion. While it is appropriate that respondents reimburse the Commission for costs incurred as a result of their misconduct, we do not want to unduly penalize or discourage respondents through costs awards from bringing matters before the Commission that respondents wish to contest in good faith.

[248] Finally, we have considered the factors set out in Rule 18.2 of the Commission's *Rules of Procedure* in considering the imposition of costs. In general, the Respondents contributed to a more effective hearing, did not unnecessarily lengthen the hearing and assisted the Commission in understanding the issues before it. The Respondents conducted themselves appropriately throughout. None of the factors referred to in clauses (a), (f) or (j) of paragraph 241 of these reasons apply to the Respondents.

[249] After considering all of these factors, we order CHCC and Pushka to pay, on a joint and several basis, costs of the Merits Hearing of $300,000.

IX. FINDINGS AND CONCLUSIONS AS TO SANCTIONS AND COSTS

[250] In the result, we will order that:

(a) pursuant to subsection 127(1)9 of the Act, CHCC and Pushka jointly and severally pay to the Commission an administrative penalty of $1,875,000;

(b) pursuant to subsection 127(1)10 of the Act, CHCC and Pushka jointly and severally disgorge to the Commission amounts obtained by them as a result of their non-compliance with Ontario securities law of $18,237,047;

(c) the market conduct and other prohibitions set out in paragraph 240 of these reasons apply to CHCC and Pushka on the terms provided in that paragraph; and

(d) pursuant to subsection 127.1(1) and (2) of the Act, the Respondents jointly and severally pay $300,000 of the costs incurred by the Commission in connection with the investigation and hearing of this matter.

[251] The amounts ordered paid to the Commission under paragraph 250(a) and (b) above shall be designated for allocation or use by the Commission pursuant to subsection 3.4(2)(b)(i) and (ii) of the Act.

X. CONCLUSION

[252] We have concluded that imposing these sanctions and costs is in the public interest. We will sign a separate order imposing these sanctions and costs substantially in the form of Schedule A to these reasons.

Dated at Toronto, this 8th day of August, 2014.

"James E. A. Turner"
James E. A. Turner

"Christopher Portner"
Christopher Portner

"Judith N. Robertson"
Judith N. Robertson

Schedule A

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

AND

IN THE MATTER OF
CROWN HILL CAPITAL CORPORATION and WAYNE LAWRENCE PUSHKA

ORDER
(Sections 127 and 127.1 of the *Securities Act*)

WHEREAS on July 7, 2011, a Notice of Hearing was issued by the Ontario Securities Commission (the "Commission") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Crown Hill Capital Corporation ("CHCC") and Wayne Lawrence Pushka ("Pushka") (collectively, the "Respondents");

AND WHEREAS a Statement of Allegations in this matter was issued by Staff on the same day;

AND WHEREAS the hearing on the merits of this matter took place over 14 hearing days from May 9, 2012 to September 18, 2012;

AND WHEREAS by decision and reasons dated August 23, 2013 (the "Merits Decision"), the Commission found that:

(a) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act in making certain amendments to the MACCs Declaration of Trust;

(b) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) making certain changes to the rights of CHDF unitholders by means of the merger of CHDF with MACCs; and (ii) failing to appropriately address the conflicts of interest arising in connection with that merger;

(c) CHCC acted contrary to and breached its fiduciary duty under subsection 116(a) of the Act by (i) causing CHF to make the Fairway Loan; and (ii) causing CHF to enter into the Citadel Acquisition and by proposing the Reorganization;

(d) the June 09 Circular was materially misleading and failed to provide sufficient information to permit a reasonable CHF unitholder to make an informed judgment whether to vote to approve the Reorganization, contrary to Ontario securities law;

(e) the indirect acquisition by CHF of the rights to the Citadel Management Agreements was contrary to and breached Section 5.2(1) of the CHF Declaration of Trust; accordingly, by causing CHF to enter into the Citadel Acquisition, CHCC acted contrary to and breached its fiduciary duty to CHF, contrary to subsection 116(a) of the Act;

(f) during the relevant time, CHCC failed to have written policies and procedures to address matters such as the Fairway Loan and the Reorganization, contrary to section 2.2 of National Instrument 81-107;

(g) during the relevant time, Pushka was, among his various roles, President and Chief Executive Officer and a director of CHCC and he authorized, permitted or acquiesced in all of the actions, decisions and transactions made or approved by CHCC that were the subject matter of this proceeding; as a result, where the Commission concluded that CHCC did not comply with Ontario securities law, Pushka was deemed pursuant to section 129.2 of the Act to also have not complied with such law; and

(h) by reason of the findings in clauses (a) to (g) above, the Commission also found that each of CHCC and Pushka acted contrary to the public interest;

AND WHEREAS on February 24 and 28, 2014, a hearing was held before the Commission to consider pursuant to sections 127 and 127.1 of the Act whether it was in the public interest to make an order imposing sanctions on, and the payment of costs of the investigation and hearing by, the Respondents;

AND WHEREAS in coming to its conclusions on sanctions, the Commission considered the submissions of the parties, the evidence submitted and the other factors and circumstances that the Commission considered relevant as discussed in its reasons for decision on sanctions and costs dated the date of this Order;

AND WHEREAS the capitalized terms used in this Order, other than terms expressly defined in this Order, are used as defined in the Merits Decision;

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) pursuant to paragraph 2 of subsection 127(1) of the Act, each of CHCC and Pushka cease trading in any securities or derivatives until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, each of CHCC and Pushka be prohibited from acquiring any securities until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions in Ontario securities law not apply to CHCC and Pushka until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid to the Commission under this Order;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, Pushka be reprimanded;

(e) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Pushka resign any positions he holds as an officer or director of any reporting issuer, registrant or investment fund manager;

(f) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Pushka be prohibited from becoming a director or officer of any reporting issuer, registrant or investment fund manager for a period of ten years from the date of this Order, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid under this Order;

(g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, each of CHCC and Pushka be prohibited from becoming or acting as a registrant, an investment fund manager or a promoter for a period of ten years from the date of this Order, and thereafter until such time as CHCC and Pushka have paid all of the amounts of disgorgement, administrative penalties and costs ordered to be paid pursuant to this Order;

(h) pursuant to paragraph 9 of subsection 127(1) of the Act, CHCC and Pushka jointly and severally pay to the Commission an administrative penalty of $1,875,000;

(i) pursuant to paragraph 10 of subsection 127(1) of the Act, CHCC and Pushka jointly and severally disgorge to the Commission amounts obtained by them as a result of their non-compliance with Ontario securities law of $18,237,047;

(j) pursuant to subsection 127.1(1) and (2) of the Act, CHCC and Pushka jointly and severally pay $300,000 of the costs incurred by the Commission in connection with the investigation and hearing of this matter; and

(k) the amounts referred to in paragraphs (h) and (i) above of this Order shall be designated for allocation or use by the Commission pursuant to subsection 3.4(2)(b)(i) and (ii) of the Act.

DATED at Toronto this 8th day of August, 2014.

"James E. A. Turner"
James E. A. Turner

"Christopher Portner"
Christopher Portner

"Judith N. Robertson"
Judith N. Robertson

Schedule B

In the Matter of Crown Hill Capital Corporation and Wayne Lawrence Pushka **Summary**

Summary of Direct and Indirect Amount received by Pushka and Entities Beneficially Owned by Pushka From 2009 to 2012

	Description	Paid By	Paid To	Nature/Time Period for Payment	Amount*	Supporting Document	Supporting Doc Source
	Management Fees Received						
1	Management fees	CHF/CIF	CHCC	2009	577,528	CIF 2009 annual audited F/S	Appendix JJJ
2	Management fees	5 Citadel funds that merged with CHF	278 Albert Ltd.	June to December 2009 (prior to merger)	1,495,323	Schedule 1	Appendix III
3	Management fees	CIF	CHCC	2010	2,261,790	CIF 2010 annual audited F/S	Appendix KKK
4	Management fees	CIF	CHCC	2011	1,667,193	CIF 2011 annual audited F/S	Appendix LLL
5	Management fees	CIF	CHCC	2012	1,609,319	CIF 2012 annual audited F/S	Appendix MMM
6	Management fees	2 Citadel funds that later formed Blue Ribbon	278 Albert Ltd.	June to November 2009	1,471,272	Schedule 1	Appendix III
7	Management fees	6 remaining Citadel funds	278 Albert Ltd.	June to December 2009 (prior to merger)	477,775	Schedule 1	Appendix III, QQQ, RRR, SSS & TTT
8	Management fees	6 remaining Citadel funds	CHCC	2010	579,046	Schedule 2	Appendix III, QQQ, RRR, SSS & TTT
9	Management fees	6 remaining Citadel funds	CHCC	2011	432,265	Schedule 2	Appendix III, QQQ, RRR, SSS & TTT
10	Management fees	6 remaining Citadel funds	CHCC	2012	395,783	Schedule 2	Appendix RRS, SSS & TTT
	Subtotal: Management Fees Received				**10,967,293**		
11	Adjust for:	MACCs fees as of June 2008	CHCC	x 4 years (2009 to 2012)	(170,415)	MACCs June 2008 interim F/S	Appendix NNN
12		CHDF fees as of June 2008	CHCC	x 4 years (2009 to 2012)	(199,314)	CHDF June 2008 interim F/S	Appendix OOO
	Subtotal: Adjusted Management Fees Received				**10,597,564**		

* Adjusted for GST (5% prior to July 1, 2009) and HST (13% on and after July 1, 2009)

	Description	Paid By	Paid To	Nature/Time Period for Payment	Amount*	Supporting Document	Supporting Doc Source
	Other Fees Received						
13	Break fees for Citadel funds that formed Blue Ribbon	Series S-1 & Diversified	278 Albert Ltd.	November 2009	9,756,275	Break fee schedule	Appendix M
14	Termination fee	5 Citadel funds that merged with CHF	Citadel Fund LP	December 2009	7,437,259	Termination agreement dated Dec 1/09	Appendix Q
15	Termination fee	Sustainable	Triple Two	October 2010	99,714	Termination agreement dated Oct 4/10	Appendix SS
16	Termination fee (estimate)	Energy Plus	Triple Two	October 2010	-		Appendix PP
17	Termination fee (estimate)	FPS Corp	CHCC	June 2013	90,090	FPS Corp May 28, 2012 MIC & 2011 annual audited F/S	Appendix AAA & SSS
18	CIF redemption fee per unit of 5% x NAV	CIF redeeming unitholders	CHCC	August 9, 2012 to 31-Dec-12	5,001,165	CIF 2012 annual audited F/S	Appendix MMM
19	EIF redemption fee per unit of 5% x NAV	EIF redeeming unitholders	CHCC	August 9, 2012 to 31-Dec-12	1,597,727	EIF 2012 annual audited F/S	Appendix QQQ
20	Termination fees for change of manager to Artemis	CIF	CHCC	January 2013	5,351,944	CIF 2012 annual audited F/S	Appendix MMM
21	Termination fees for change of manager to Artemis	EIF	CHCC	January 2013	2,550,602	EIF 2012 annual audited F/S	Appendix QQQ
22	Facilitation fee for arranging the resignation of CHCC	CIF & EIF	Triple Two	January 2013	3,735,609	Correspondence between Artemis & Triple Two	Appendix II
	Subtotal of Other Fees Received				**35,620,386**		
	Total Amounts Received				**46,217,949**		

* Adjusted for GST (5% prior to July 1, 2009) and HST (13% on and after July 1, 2009)

	Description	Paid By	Paid To	Nature/Time Period for Payment	Amount*	Supporting Document	Supporting Doc Source
	Other Amounts Applied to Reduce CIF Loans to CHCC & the parent of CHCC						
23	Fairway Loan pro rata redemption fees (estimate)	CHF redeeming unitholders	applied to $995,000 loan	2009	364,884	CIF 2009 annual audited F/S	Appendix JJJ
24	CIF retraction fees	CIF redeeming unitholders	applied to $9,955,000 loan	December 2009 to December 2012	2,243,413	CIF 2012 annual audited F/S	Appendix MMM
25	CIF difference between NCIB price & NAV at repurchase	CIF selling unitholders	applied to $9,955,000 loan	December 2009 to December 2012	4,980,491	CIF 2012 annual audited F/S	Appendix MMM
	Subtotal of Other Fees Applied Directly to Debts				**7,588,788**		
	Total Amounts Received & Indirect Benefits				**53,806,737**		
	Amounts Used to Repay Loans from CHF/CIF						
26	Fairway Loan pro rata redemption fee				(364,884)		
27	CIF retraction fees				(2,243,413)	CIF 2012 annual audited F/S	Appendix MMM
28	Difference between NCIB price & NAV at repurchase				(4,980,491)	CIF 2012 annual audited F/S	Appendix MMM
29	Balance of Citadel funds purchase loan of $9,955,000 + $213,904				(2,945,000)	CIF 2012 annual audited F/S	Appendix MMM
30	Balance of Fairway loan repaid				(630,116)		
31	Cash portion of Citadel funds purchase price				(18,690,000)	CIF material change report	Appendix U
	Subtotal of Other Fees Applied Directly to Debts				**(29,853,904)**		
	Net Amounts Remaining				**23,952,833**		

* Adjusted for GST (5% prior to July 1, 2009) and HST (13% on and after July 1, 2009)

** Estimate of Fairway Loan pro rata retraction fee = $33,162 + [2,683,223 / 7,780,092 units * ($995,000 Fairway Loan – $33,162 principal repaid prior to merger)]

Schedule 1

In the Matter of Crown Hill Capital Corporation and Wayne Lawrence Pushka
Management Fees Paid by the Citadel Group of Funds
From June 3, 2009 (Acquisition) to December 31, 2009

Citadel Group of Funds	Monthly Management Fees (before taxes)								
	Jun-2009	Jul-2009	Aug-2009	Sep-2009	Oct-2009	Nov-2009	Dec-2009	Jul-Dec 2009	
Citadel Diversified Investment Trust	142,959.17	161,989.97	170,692.69	166,886.91	179,661.55	115,437.35	--	794,668.47	Blue
Series S-1 Income Fund	84,118.58	95,109.71	97,446,69	93,957.40	99,295.63	63,696.32	--	449,525.75	Blue
Citadel S-1 Income Trust Fund	17,383.66	19,594.15	20,205.79	19,574.41	20,558.25	20,224.41	--	100,157.01	CIF
Citadel HYTES Fund	46,689.44	51,960.96	54,004.72	53,257.60	80,894.29	56,503.95	--	296,621.52	CIF
Citadel Premium Income Fund	136,580.33	113,803.72	119,136.52	115,305.09	122,937.57	121,897.36	--	593,080.26	CIF
Citadel Stable S-1 Income Fund	46,155.95	43,758.80	45,473.99	44,372.06	47,045.12	65,174.09	--	245,824.06	CIF
Equal Weight Plus Fund	2,041.35	2,310.91	2,426.39	1,935.03	2,074.64	2,042.35	--	10,789.32	CIF
Citadel SMaRT Fund	17,942.44	19,885.73	19,028.57	18,777.73	18,881.04	17,341.43	14,761.69	108,676.19	Note #1
Financial Preferred Securities Corporation	6,157.93	7,477.36	7,966.47	7,665.98	8,176.77	7,734.89	7,734.89	46,756.36	Note #2
Energy Plus Income Trust	19,452.33	21,720.23	23,061.84	23,211.60	24,720.84	23,928.99	24,231.05	140,874.55	Note #3
Sustainable Production Energy Trust	11,589.50	13,082.15	13,965.67	13,937.20	14,870.15	14,402.15	15,412.98	85,670.30	Note #4
CGF Resource 2008 FT Ltd. Partnership	5,696.81	6,108.34	6,654.26	6,744.40	7,787.36	7,664.53	--	34,958.89	Note #5
CGF Mutual Funds	--	--	--	--	--	--	--	--	
	536,767.49	556,802.03	580,083.60	565,625.41	626,903.21	516,047.82	62,140.61	2,907,602.68	

2 Citadel Funds forming Blue Ribbon Funds subtotal	227,077.75	1,244,194.22
5 Citadel Funds that Merge subtotal	248,850.73	1,246,472.17
6 Remaining Citadel Funds	60,839.01	416,936.29
	536,767.49	2,907,602.68

Notes:

#1: Dec 2009 Estimate = [(2009 administrative & management fees per F/S) – (June 2009 per interim F/S)] x (50% for IFM fees) / (1.05 to eliminate the 5% GST) – fees paid from July to November 2009

#2: Dec 2009 Estimate = Nov 2009 fee

#3: Dec 2009 Estimate = [(2009 administrative & management fees per F/S) – (June 2009 per interim F/S)] x (.7/1.1 for IFM fees) / (1.05 to eliminate the 5% GST) – fees paid from July to November 2009

#4: Dec 2009 Estimate = [(2009 administrative & management fees per F/S) – (June 2009 per interim F/S)] x (.7/1.1 for IFM fees) / (1.05 to eliminate the 5% GST) – fees paid from July to November 2009

#5: Dec 2009 Estimate = zero since no December 2009 financial statements available

In the Matter of Crown Hill Capital Corporation and Wayne Lawrence Pushka
Summary of Management Fees Paid to by the 6 Remaining Citadel Funds
From 2009 to 2012

2010	Event Date	Management Fees	Basis
Smart		179,662.00	($359,324 admin & investment management fee per 2010 F/S) x (50% CHCC management fee)
FPS Corp		72,050.00	Amount per 2011 f/s as the 2010 comparative
Energy Plus	Merged with EIF on Oct 4/10	193,538.86	($202,755 admin & investment management fee per 2010 F/S) x (.7/1.1 for CHCC's share of the fees) x 1.5 to estimate fee for 9 months up to September 2010
Sustainable/EIF		116,078.45	Amount per 2011 f/s as the 2010 comparative
CGF LP	Merged with EIF on Oct 4/10	68,980.77	Estimate based on November 2009 monthly fee x 9 months up to September 2010
CGF Mutual Funds	Terminated Feb 1/10	--	Assume zero
	Subtotal	**630,310.09**	1/2 year with 5% GST and 1/2 year with 13% HST
	Subtotal, before tax	**579,045.93**	
2011			
Smart		82,405.00	($82,405 admin & investment management fee per 2011 F/S) x (50% CHCC management fee) x 2 to annualize
FPS Corp		64,737.00	Amount per 2011 F/S
EIF		341,317.00	Amount per 2011 F/S
	Subtotal	**488,459.00**	Full year of HST
	Subtotal, before tax	**432,264.60**	
2012			
Smart	Merged with EIF on March 23/12	20,601.25	Estimate based on 2011 fees x 3 months up to March 2012
FPS Corp	Redeemed on June 13/12	26,973.75	Estimate based on 2011 fees x 5 months up to May 2012
EIF		399,660.00	Amount per 2012 F/S
	Subtotal	**447,235.00**	Full year of HST
	Subtotal, before tax	**395,783.19**	

Schedule C

TERMS USED IN THESE REASONS

Acronym	Term	Definition
	Act	The *Securities Act*, R.S.O. 1990, c. S.5, as amended
	Approval Letter	A one-page letter dated January 14, 2013 from Staff approving the proposed acquisition by Artemis of all or a substantial part of the assets of CHCC (see paragraph 159 of these reasons)
	Artemis	Artemis Investment Management Limited, an investment manager that acquired all or a substantial part of the assets of CHCC in January, 2013 (see paragraph 38 of these reasons)
	August 2012 Meetings	The meetings of CIF and EIF unitholders held on August 7, 2012 to approve the "Unitholder Empowerment Plan" (see paragraphs 42 and 139 of these reasons)
	BC Commission	The British Columbia Securities Commission (see paragraph 97 of these reasons)
	Bloom	Bloom Investment Counsel Inc., portfolio manager for six of the largest Citadel Funds at the time of the Citadel Acquisition (see paragraph 13 of these reasons)
	Blue Ribbon	Blue Ribbon Fund Management Ltd., the IFM for Blue Ribbon Fund (see paragraph 23 of these reasons)
	Blue Ribbon Fund	The fund formed by the merger of Diversified and Series S-1 (see paragraph 23 of these reasons)
	Blue Ribbon Proposal	The solicitation of the unitholders of the Citadel Funds to requisition special meetings of the Citadel Funds to replace CHCC as IFM with Brompton (see paragraph 13 of these reasons)
	Brompton	Brompton Administration Limited, an IFM (see paragraph 13 of these reasons)
	CH Administration LP	CH Fund Administrator LP, an Ontario limited partnership (owned by CHF) that indirectly acquired the rights to the Citadel Management Agreements for $28 million (see paragraph 123 of these reasons and Footnote 2)
CHAM		Crown Hill Asset Management Inc., portfolio manager of CHF until it was replaced by Robson; an affiliate of CHCC (see paragraph 66 of these reasons)
CHCC		Crown Hill Capital Corporation, one of the Respondents; the IFM and trustee for CHF during the relevant time; wholly-owned, directly or indirectly, by Pushka (see paragraph 1 of these reasons)
	CHCC Board	The board of directors of CHCC
	CHCC Note	The promissory note issued by CHCC in the principal amount of $9,955,000 as part of the consideration for acquiring from CHF the rights to the Citadel Management Agreements (see paragraph 30 of these reasons)
CHDF		Crown Hill Dividend Fund, an investment fund that merged with MACCs to form CHF (see paragraph 7 of these reasons)
CHF	Crown Hill Fund	A publicly traded closed-end investment trust of which CHCC was IFM and trustee during the relevant time (see paragraph 6 of these reasons)
	CHF Management Agreement	The management services agreement for CHF
CGF LP		CGF Resources 2008 Flow-Through LP, one of the Citadel Funds that merged with Energy Plus and Sustainable to form EIF (see paragraph 31 of these reasons)
CIF	Citadel Income Fund	The continuing fund after five of the Citadel Funds were merged with CHF on December 2, 2009 (see paragraph 28 of these reasons)

Acronym	Term	Definition
	CIF Circular	A proxy circular for a meeting of CIF unitholders held on August 7, 2012 to approve the "Unitholder Empowerment Plan" (see paragraph 41 of these reasons)
	Citadel Acquisition	The transaction under which CHF indirectly acquired on June 3, 2009 the rights to the Citadel Management Agreements for a purchase price of $28 million; as defined in the Merits Decision
	Citadel Funds	The 13 investment funds referred to as the Citadel Group of Funds (see paragraph 7 of these reasons)
	Citadel Management Agreements	The management services agreements for the Citadel Funds; as defined in the Merits Decision
	Citadel Transaction	The Citadel Acquisition and the proposed Reorganization (defined by CHCC to include the merger over time of eight of the Citadel Funds with CHF, and related transactions); as defined in the Merits Decision
	Commission	The Ontario Securities Commission
	Diversified	The Diversified Investment Trust, one of the Citadel Funds that merged with Series S-1 to form the Blue Ribbon Fund (see paragraph 23 of these reasons)
	Divestiture	The transaction under which CHF indirectly transferred the rights to the Citadel Management Agreements to CHCC; approved by unitholders at the September 2009 Meeting (see paragraph 30 of these reasons)
	Divestiture Plan	A proposal for CHF to transfer the rights to the Citadel Management Agreements to CHCC for consideration that included a cash payment and a promissory note issued by CHCC; ultimately, that proposal became the Divestiture (see paragraph 16 of these reasons).
EIF	Energy Income Fund	The continuing fund after the merger of CGF LP and Energy Plus with Sustainable to form EIF; CHCC was the IFM during the relevant time (see paragraph 32 of these reasons)
	Energy Plus	The Energy Plus Income Fund, one of the Citadel Funds that merged with CGF LP and Sustainable to form EIF; CHCC was the IFM during the relevant time (see paragraph 32 of these reasons)
EWP		The Equal Weight Plus Fund, one of the Citadel Funds that merged with CHF (see paragraph 22 of these reasons)
	Facilitation Fee	The fee of $3,735,609 paid by Artemis to Triple Two for causing CHCC to resign as IFM and trustee of CIF and EIF (see paragraph 46 of these reasons)
	Fairway Fund	The Fairway Diversified Income and Growth Trust, an investment fund that merged with CHF on January 23, 2009 (see paragraph 7 of these reasons)
	First Paladin	First Paladin Inc., an affiliate of CHCC (see paragraph 66 of these reasons)
	FPS Corp.	Financial Preferred Securities Corporation, one of the Citadel Funds in respect of which CHCC obtained management powers on December 22, 2009 (see paragraph 31 of these reasons)
	Hytes	The HYTES Fund, one of the Citadel Funds that merged with CHF (see paragraph 28 of these reasons)
IFM		An investment fund manager; a person or company that directs the business, operations and affairs of an investment fund (see paragraph 7 of these reasons)
	independent review committee	A committee that, under National Instrument 81-107, is required to be part of the governance structure of public investment funds in Canada; its role includes making recommendations in connection with conflict of interest matters referred to it by the IFM of an investment fund (see paragraph 144 of these reasons)
IRC		The independent review committee of CHF (see paragraph 16 of these reasons)

Acronym	Term	Definition
	Lo Affidavit	The affidavit of Yvonne Lo, a Staff senior forensic accountant, that contains a summary of the amounts that Staff says CHCC and Pushka obtained as a result of their contraventions of Ontario securities law (see paragraph 130 of these reasons)
MACCs		MACCs Sustainable Yield Trust, an investment fund that merged with CHDF to form CHF (see paragraph 7 of these reasons)
	Merits Decision	The Commission's reasons and decision issued on August 23, 2013 in connection with the Merits Hearing (see paragraph 2 of these reasons)
	Merits Hearing	The Commission hearing on the merits in this matter, heard over 14 days from May 9, 2012 to September 18, 2012 (see paragraph 2 of these reasons)
NAV		The net asset value of an investment fund
	Payments Summary	Exhibit HHH to the Lo Affidavit containing a summary of the amounts that Staff says CHCC and related entities received, or had the direct benefit of, over the Relevant Period; attached as Schedule B to these reasons (see paragraph 130 of these reasons)
	Preferred Return	The return on CHF's investment in the rights to the Citadel Management Agreements consisting of the expenses of the acquisition (including the $28 million purchase price) and $4.0 million, plus 6% on those expenses and the $4.0 million; as defined in the Merits Decision
	Premium	The Premium Income Fund, one of the Citadel Funds that merged with CHF (see paragraph 28 of these reasons)
	Pushka	Wayne Lawrence Pushka, one of the Respondents; the President and Chief Executive Officer and a director of CHCC and its affiliates; CHCC and its affiliates are wholly-owned, directly or indirectly, by Pushka (see paragraph 1 of these reasons)
	Relevant Period	The period from June 9, 2009 to January, 2013 (see paragraph 11 of these reasons)
	Proposed Reorganization	The reorganization proposed by CHCC that was approved by CHF unitholders at the September 2009 Meeting (see paragraph 18 of these reasons)
	Reorganization	CHCC publicly announced on June 4, 2009 that it proposed to carry out a "Reorganization" under which the CHF Management Agreement and the Citadel Management Agreements would be consolidated in a joint venture as the first step in the process to facilitate the mergers over time of eight of the Citadel Funds with CHF; the Reorganization did not proceed as a result of concerns raised by Staff; as defined in the Merits Decision (see paragraph 9(c) and (d) of these reasons)
	Respondents	CHCC and Pushka (see paragraph 1 of these reasons)
	Robson	Robson Capital Management Inc., the portfolio manager of CHF appointed on January 16, 2009 (see paragraph 58 of these reasons)
	S-1	The S-1 Income Trust Fund, one of the Citadel Funds that merged with CHF (see paragraph 28 of these reasons)

Acronym	Term	Definition
	September 2009 Meeting	A CHF unitholder meeting held on September 30, 2009 to approve (a) the mergers of certain of the Citadel Funds with CHF; (b) the Divestiture; (c) the creation of the Special Redemption Right; and (d) other amendments to the CHF declaration of trust (see paragraphs 18 and 206 of these reasons)
	Series S-1	The Series S-1 Income Trust Fund, one of the Citadel Funds that merged with Diversified to form the Blue Ribbon Fund (see paragraph 23 of these reasons)
	SMaRT	The SMaRT Fund, one of the Citadel Funds that merged with EIF (see paragraph 39 of these reasons)
	Special Redemption Right	A right of redemption for CHF unitholders, and for unitholders of the Citadel Funds that were proposed to be merged with CHF, exercisable at 97% of NAV in the case of CHF, and at similar redemption prices based on NAV for unitholders of the Citadel Funds to be merged (see paragraph 19 of these reasons); approved by CHF unitholders at the September 2009 Meeting
	Stable S-1	The Stable S-1 Income Fund, one of the Citadel Funds that merged with CHF (see paragraph 28 of these reasons)
	Staff	Staff of the Commission
	Statement of Allegations	The statement of allegations dated July 11, 2011 in this matter (see paragraph 34 of these reasons)
	Submission	Written submissions filed by the Respondents in connection with the hearing on sanctions and costs (see paragraph 147 of these reasons)
	Sustainable	The Sustainable Production Energy Trust, one of the Citadel Funds that merged with Energy Plus and CGF LP to form EIF (see paragraph 31 of these reasons)
	Triple Two	2223785 Ontario Inc., an affiliate of CHCC (see paragraph 46 of these reasons)
TSX		Toronto Stock Exchange (see paragraph 60 of these reasons)
	Unitholder Empowerment Plan	A plan approved by CIF and EIF unitholders at the August 2012 Meetings that included changes to the CIF and EIF declarations of trust imposing a fee of 5% of NAV on the termination or resignation of its IFM and imposing on unitholders a redemption fee of 5% of NAV upon any redemption of units (see paragraph 42 of these reasons)

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
Canada Renewable Bioenergy Corp.	11 August 14	22 August 14		
Cuervo Resources Inc.	6 August 14	18 August 14		
Guerrero Exploration Inc.	11 August 14	22 August 14		
Newlox Gold Ventures Corp.	11 August 14	22 August 14		
Sierra Madre Developments Inc.	12 August 14	25 August 14		
St. James Square Limited Partnership	13 September 07	25 September 07	25 September 07	11 August 14
TAC Gold Corporation	11 August 14	22 August 14		
Valhalla Resources Ltd.	11 August 14	22 August 14		

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
Penn West Petroleum Ltd.	8 August 14	20 August 14			

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
Penn West Petroleum Ltd.	8 August 14	20 August 14			
Red Tiger Mining Inc.	2 May 14	14 May 14	14 May 14	6 August 14	

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Chapter 5

Rules and Policies

5.1.1 Amendments to OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting

AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 91-507
TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING

1. Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting is amended by this Instrument.

2. Section 25 is amended

(a) by replacing subsection (1) with the following:

(1) The reporting counterparty with respect to a transaction involving a local counterparty is

(a) if the transaction is cleared through a recognized or exempt clearing agency, the recognized or exempt clearing agency,

(b) if the transaction is not cleared through a recognized or exempt clearing agency and is between two derivatives dealers, the derivatives dealer determined to be the reporting counterparty under the ISDA methodology,

(c) if paragraphs (a) and (b) do not apply to the transaction and the transaction is between two derivatives dealers, each derivatives dealer,

(d) if the transaction is not cleared through a recognized or exempt clearing agency and is between a derivatives dealer and a counterparty that is not a derivatives dealer, the derivatives dealer,

(e) if paragraphs (a) to (d) do not apply to the transaction, the counterparty determined to be the reporting counterparty under the ISDA methodology, and

(f) in any other case, each local counterparty to the transaction.

(b) by adding the following subsections:

(2) A party that would not be the reporting counterparty under the ISDA methodology with regard to a transaction required to be reported under this Rule may rely on paragraph (1)(b) or (e) in respect of that transaction only if

(a) each party to the transaction has agreed to the terms of a multilateral agreement

(i) that is administered by and delivered to the International Swaps and Derivatives Association, Inc., and

(ii) under which the process set out in the ISDA methodology is required to be followed by it with respect to each transaction required to be reported under this Rule,

(b) the ISDA methodology process is followed in determining the reporting counterparty in respect of that transaction, and

(c) each party to the transaction consents to the release to the Commission by the International Swaps and Derivatives Association, Inc. of information relevant in determining the applicability of paragraphs (a) and (b) to it.

(3) For the purposes of this section, "ISDA methodology" means the methodology described in the Canadian Transaction Reporting Party Requirements (issued by the International Swaps and Derivatives Association, Inc. and dated April 4, 2014).

3. Section 34 is amended by replacing "party***" with "***counterparty***" wherever it occurs.***

4. Subsection 39(1) is amended by adding ", where applicable,***" before "***price***".***

5. Appendix A is replaced with the following:

Appendix A to OSC Rule 91-507 – Trade Repositories and Derivatives Data Reporting
Minimum Data Fields Required to be Reported to a Designated Trade Repository

Instructions:

The reporting counterparty is required to provide a response for each of the fields unless the field is not applicable to the transaction.

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
Transaction identifier	The unique transaction identifier as provided by the designated trade repository or the identifier as identified by the two counterparties, electronic trading venue of execution or clearing agency.	N	Y
Master agreement type	The type of master agreement, if used for the reported transaction.	N	N
Master agreement version	Date of the master agreement version (e.g., 2002, 2006).	N	N
Cleared	Indicate whether the transaction has been cleared by a clearing agency.	Y	Y
Intent to clear	Indicate whether the transaction will be cleared by a clearing agency.	N	N
Clearing agency	LEI of the clearing agency where the transaction is or will be cleared.	N	Y
Clearing member	LEI of the clearing member, if the clearing member is not a counterparty.	N	N
Clearing exemption	Indicate whether one or more of the counterparties to the transaction are exempted from a mandatory clearing requirement.	Y	N
Broker/Clearing intermediary	LEI of the broker acting as an intermediary for the reporting counterparty without becoming a counterparty.	N	N
Electronic trading venue identifier	LEI of the electronic trading venue where the transaction was executed.	Y (Only "Yes" or "No" shall be publicly disseminated)	Y
Inter-affiliate	Indicate whether the transaction is between two affiliated entities. (This field is only required to be reported as of April 30, 2015.)	N	N

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
Collateralization	Indicate whether the transaction is collateralized. Field Values: • Fully (initial and variation margin required to be posted by both parties), • Partially (variation only required to be posted by both parties), • One-way (one party will be required to post some form of collateral), • Uncollateralized.	Y	N
Identifier of reporting counterparty	LEI of the reporting counterparty or, in case of an individual, its client code.	N	Y
Identifier of non-reporting counterparty	LEI of the non-reporting counterparty or, in case of an individual, its client code.	N	Y
Counterparty side	Indicate whether the reporting counterparty was the buyer or seller. In the case of swaps, other than credit default, the buyer will represent the payer of leg 1 and the seller will be the payer of leg 2.	N	Y
Identifier of agent reporting the transaction	LEI of the agent reporting the transaction if reporting of the transaction has been delegated by the reporting counterparty.	N	N
Jurisdiction of reporting counterparty	If the reporting counterparty is a local counterparty under the derivatives data reporting rules of one or more provinces of Canada, indicate all of the jurisdictions in which it is a local counterparty.	N	N
Jurisdiction of non-reporting counterparty	If the non-reporting counterparty is a local counterparty under the derivatives data reporting rules of one or more provinces of Canada, indicate all of the jurisdictions in which it is a local counterparty.	N	N
A. Common Data	• These fields are required to be reported for all derivative transactions even if the information may be entered in an Asset field below. • Fields do not have to be reported if the unique product identifier adequately describes those fields.		
Unique product identifier	Unique product identification code based on the taxonomy of the product.	Y	N
Transaction type	The name of the transaction type (e.g., swap, swaption, forwards, options, basis swap, index swap, basket swap, other).	Y	Y
Underlying asset identifier 1	The unique identifier of the asset referenced in the transaction.	Y	Y

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
Underlying asset identifier 2	The unique identifier of the second asset referenced in the transaction, if more than one. If more than two assets identified in the transaction, report the unique identifiers for those additional underlying assets.	Y	Y
Asset class	Major asset class of the product (e.g., interest rate, credit, commodity, foreign exchange, equity, etc.).	Y	N
Effective date or start date	The date the transaction becomes effective or starts.	Y	Y
Maturity, termination or end date	The date the transaction expires.	Y	Y
Payment frequency or dates	The dates or frequency the transaction requires payments to be made (e.g., quarterly, monthly).	Y	Y
Reset frequency or dates	The dates or frequency at which the price resets (e.g., quarterly, semi-annually, annually).	Y	Y
Day count convention	Factor used to calculate the payments (e.g., 30/360, actual/360).	Y	Y
Delivery type	Indicate whether transaction is settled physically or in cash.	N	Y
Price 1	The price, yield, spread, coupon, etc., of the derivative. The price/rate should not include any premiums such as commissions, collateral premiums, accrued interest, etc.	Y	Y
Price 2	The price, yield, spread, coupon, etc., of the derivative. The price/rate should not include any premiums such as commissions, collateral premiums, accrued interest, etc.	Y	Y
Price notation type 1	The manner in which the price is expressed (e.g., percent, basis points, etc.).	Y	Y
Price notation type 2	The manner in which the price is expressed (e.g., percent, basis points, etc.).	Y	Y
Price multiplier	The number of units of the underlying reference entity represented by 1 unit of the transaction.	N	N
Notional amount leg 1	Total notional amount(s) of leg 1 of the transaction.	Y	Y
Notional amount leg 2	Total notional amount(s) of leg 2 of the transaction.	Y	Y
Currency leg 1	Currency(ies) of leg 1.	Y	Y
Currency leg 2	Currency(ies) of leg 2.	Y	Y
Settlement currency	The currency used to determine the cash settlement amount.	Y	Y
Up-front payment	Amount of any up-front payment.	N	N

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
Currency or currencies of up-front payment	The currency in which any up-front payment is made by one counterparty to another.	N	N
Embedded option	Indicate whether the option is an embedded option.	Y	N
B. Additional Asset Information	These additional fields are required to be reported for transactions in the respective types of derivatives set out below, even if the information is entered in a Common Data field above.		
i) Interest rate derivatives			
Fixed rate leg 1	The rate used to determine the payment amount for leg 1 of the transaction.	N	Y
Fixed rate leg 2	The rate used to determine the payment amount for leg 2 of the transaction.	N	Y
Floating rate leg 1	The floating rate used to determine the payment amount for leg 1 of the transaction.	N	Y
Floating rate leg 2	The floating rate used to determine the payment amount for leg 2 of the transaction.	N	Y
Fixed rate day count convention	Factor used to calculate the fixed payer payments (e.g., 30/360, actual/360).	N	Y
Fixed leg payment frequency or dates	Frequency or dates of payments for the fixed rate leg of the transaction (e.g., quarterly, semi-annually, annually).	N	Y
Floating leg payment frequency or dates	Frequency or dates of payments for the floating rate leg of the transaction (e.g., quarterly, semi-annually, annually).	N	Y
Floating rate reset frequency or dates	The dates or frequency at which the floating leg of the transaction resets (e.g., quarterly, semi-annually, annually).	N	Y
ii) Currency derivatives			
Exchange rate	Contractual rate(s) of exchange of the currencies.	N	Y
iii) Commodity derivatives			
Sub-asset class	Specific information to identify the type of commodity derivative (e.g., Agriculture, Power, Oil, Natural Gas, Freights, Metals, Index, Environmental, Exotic).	Y	Y
Quantity	Total quantity in the unit of measure of an underlying commodity.	Y	Y
Unit of measure	Unit of measure for the quantity of each side of the transaction (e.g., barrels, bushels, etc.).	Y	Y
Grade	Grade of product being delivered (e.g., grade of oil).	N	Y

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
Delivery point	The delivery location.	N	N
Load type	For power, load profile for the delivery.	N	Y
Transmission days	For power, the delivery days of the week.	N	Y
Transmission duration	For power, the hours of day transmission starts and ends.	N	Y
C. Options	These additional fields are required to be reported for options transactions set out below, even if the information is entered in a Common Data field above.		
Option exercise date	The date(s) on which the option may be exercised.	Y	Y
Option premium	Fixed premium paid by the buyer to the seller.	Y	Y
Strike price (cap/floor rate)	The strike price of the option.	Y	Y
Option style	Indicate whether the option can be exercised on a fixed date or anytime during the life of the transaction (e.g., American, European, Bermudan, Asian).	Y	Y
Option type	Put/call.	Y	Y
D. Event Data			
Action	Describes the type of event to the transaction (e.g., new transaction, modification or cancellation of existing transaction, etc.).	Y	N
Execution timestamp	The time and date of execution or novation of a transaction, expressed using Coordinated Universal Time (UTC).	Y	Y (If available)
Post-transaction events	Indicate whether the transaction resulted from a post-transaction service (e.g. compression, reconciliation, etc.) or from a lifecycle event (e.g. novation, amendment, etc.).	N	N
Reporting date	The time and date the transaction was submitted to the trade repository, expressed using UTC.	N	N
E. Valuation data	These additional fields are required to be reported on a continuing basis for all reported derivative transactions, including reported pre-existing transactions.		
Value of transaction calculated by the reporting counterparty	Mark-to-market valuation of the transaction, or mark-to-model valuation	N	N
Valuation currency	Indicate the currency used when reporting the value of the transaction.	N	N
Valuation date	Date of the latest mark-to-market or mark-to-model valuation.	N	N

Data field	Description	Required for Public Dissemination	Required for Pre-existing Transactions
F. Other details	Where the terms of the transaction cannot be effectively reported in the above prescribed fields, provide any additional information that may be necessary.	N	Y

6. Appendix B is replaced with the following:

Appendix B to OSC Rule 91-507 – Trade Repositories and Derivatives Data Reporting
Equivalent Trade Reporting Laws of Foreign Jurisdictions
Subject to Deemed Compliance Pursuant to Subsection 26(5)

The Commission has determined that the laws and regulations of the following jurisdictions outside of Ontario are equivalent for the purposes of the deemed compliance provision in subsection 26(5).

Jurisdiction	Law, Regulation and/or Instrument
United States of America	*CFTC Real-Time Public Reporting of Swap Transaction Data*, 17 C.F.R. pt. 43 (2013). *CFTC Swap Data Recordkeeping and Reporting Requirements*, 17 C.F.R. pt. 45 (2013). *CFTC Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*, 17 C.F.R. pt. 46 (2013).

7. This Instrument comes into force on September 9, 2014.

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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

REPORT OF TRADES ON FORM 45-106F1 AND 45-501F1

There are no Reports of Exempt Distribution on Forms 45-106F1 or 45-501F1 (Reports) in this Bulletin.

Reports filed on or after February 19, 2014 must be filed electronically.

As a result of the transition to mandated electronic filings, the OSC is considering the most effective manner to make data about filed Reports available to the public, including whether and how this information should be reflected in the Bulletin. In the meantime, Reports filed with the Commission continue to be available for public inspection during normal business hours.

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Alexco Resource Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated August 5, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
$7,015,000.00 - 6,100,000 Units.
Price of $1.15 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #2237633

Issuer Name:
Callidus Capital Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated August 1, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
$600,000,000 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2240017

Issuer Name:
Discovery 2014 Flow-Through Limited Partnership
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated August 1, 2014
NP 11-202 Receipt dated August 7, 2014
Offering Price and Description:
Maximum: $30,000,000.00 - 1,200,000 Units
Minimum: $5,000,000.00 – 200,000 Units
PRICE: $25.00 PER UNIT
MINIMUM SUBSCRIPTION: $2,500 (100 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Canaccord Genuity Corp.
Middlefield Capital Corporation
Raymond James Ltd.
Promoter(s):
Middlefield Resource Corporation
Project #2241659

Issuer Name:
IA Clarington Global Growth & Income Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated August 5, 2014
NP 11-202 Receipt dated August 6, 2014
Offering Price and Description:
Offering Series A, F, F5, I, L, L5, and T5 units
Underwriter(s) or Distributor(s):
-
Promoter(s):
IA Clarington Investments Inc.
Project #2240365

Issuer Name:
Park Lawn Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated August 6, 2014
NP 11-202 Receipt dated August 6, 2014
Offering Price and Description:
$6,507,500 - 685,000 Common Shares
Price: $9.50 per Common Share
Underwriter(s) or Distributor(s):
MACKIE RESEARCH CAPITAL CORPORATION
GMP SECURITIES L.P.
Promoter(s):
-
Project #2239464

Issuer Name:
Peregrine Diamonds Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated August 8, 2014
NP 11-202 Receipt dated August 11, 2014
Offering Price and Description:
Offering of * Rights to Subscribe for * Units
Price: $ * per Unit. Each Unit consisting of one Common Share and one Common Share Purchase Warrant
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2242555

Issuer Name:
Sentry Conservative Income Portfolio
Sentry Growth and Income Portfolio
Sentry Growth Portfolio
Sentry Income Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated August 1, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
Offering Series A, P, F, PF, I, T4, T5, T6, T7, FT4, FT5, FT6 and FT7 securities

Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
SENTRY INVESTMENTS INC.
Project #2240298

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated July 30, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
Corporate Series units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Invesco Canada Ltd.
Project #2215086

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated July 30, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
Institutional Series units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Invesco Canada Ltd.
Project #2215090

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated July 30, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
The Northern Trust Canada Series units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Invesco Canada Ltd.
Project #2215092

Issuer Name:
Canadian Dollar Cash Management Fund
U.S. Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated July 30, 2014
NP 11-202 Receipt dated August 5, 2014
Offering Price and Description:
Series I units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Invesco Canada Ltd.
Project #2215058

Issuer Name:
Cardinal Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated August 8, 2014
NP 11-202 Receipt dated August 8, 2014
Offering Price and Description:
$148,000,000.00
8,000,000 Common Shares
Price: $18.50 per Common Share
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
FIRSTENERGY CAPITAL CORP.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
M. Scott Ratushny
Project #2237725

Issuer Name:
Clearpoint Global Dividend Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated July 31, 2014
NP 11-202 Receipt dated August 6, 2014
Offering Price and Description:
Series A and F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2232377

Issuer Name:
Constellation Software Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 7, 2014
NP 11-202 Receipt dated August 8, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2223743

Issuer Name:
Dynamic Strategic Bond Fund
(Series A, F, FH, H, I, IP, O and OP Units)
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated July 31, 2014 to the Annual Information Form dated November 29, 2013
NP 11-202 Receipt dated August 6, 2014
Offering Price and Description:
Series A, F, FH, H, I, IP, O and OP Units @ Net Asset Value
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
GCIC Ltd.
1832 Asset Management L. P.
Promoter(s):
1832 Asset Management L.P.
Project #2113472

Issuer Name:
EnerCare Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 11, 2014
NP 11-202 Receipt dated August 11, 2014
Offering Price and Description:
23,847,000 Subscription Receipts
each representing the right to receive one Common Share
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
SCOTIA CAPITAL INC.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
DESJARDINS SECURITIES INC.
CANACCORD GENUITY CORP.
JACOB SECURITIES INC.
Promoter(s):
-
Project #2235932

Issuer Name:
High Rock Canadian High Yield Bond Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated August 5, 2014 to the Long Form Prospectus dated July 29, 2014
NP 11-202 Receipt dated August 7, 2014
Offering Price and Description:
Class A Units and Class F Units
Maximum $50,000,000
$10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
National Bank Financial Inc.
Acumen Capital Finance Partners Limited
Canaccord Genuity Corp.
GMP Securities L.P.
Raymond James Ltd.
Burgeonvest Bick Securities Limited
Desjardins Securities, Inc.
Dundee Securities Ltd.
Manulife Securities Incorporated
Promoter(s):
SCOTIA MANAGED COMPANIES ADMINISTRATION INC.
Project #2217932

Issuer Name:
New Commerce Split Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 7, 2014
NP 11-202 Receipt dated August 11, 2014
Offering Price and Description:
2,533,477 Warrants to Subscribe for up to 633,369 Units (each Unit consisting of one Class I Preferred Share, one Class II Preferred Share and one Capital Share) at a Subscription Price of $12.34
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2225062

Issuer Name:
PanTerra Resource Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated August 8, 2014
NP 11-202 Receipt dated August 8, 2014
Offering Price and Description:
500,000,000 Common Shares issuable upon the exercise of 500,000,000 outstanding Subscription Receipts
Price: $0.26 per Subscription Receipt
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
TD SECURITIES INC.
RAYMOND JAMES LTD.
BEACON SECURITIES LIMITED
HAYWOOD SECURITIES INC.
CIBC WORLD MARKETS INC.
CLARUS SECURITIES INC.
Promoter(s):
-
Project #2239505

Issuer Name:
Phillips, Hager & North Canadian Equity Underlying Fund II
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 6, 2014
NP 11-202 Receipt dated August 7, 2014
Offering Price and Description:
Series O units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2229415

Issuer Name:
Scotia INNOVA Balanced Growth Portfolio
Scotia INNOVA Balanced Income Portfolio
Scotia INNOVA Growth Portfolio
Scotia INNOVA Income Portfolio
Scotia INNOVA Maximum Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated July 31, 2014 to the Annual Information dated November 8, 2013
NP 11-202 Receipt dated August 6, 2014
Offering Price and Description:
Series A and Series T Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Scotia Securities Inc.
Promoter(s):
-
Project #2085025

Issuer Name:
SunOpta Inc.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated August 7, 2014
NP 11-202 Receipt dated August 8, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2230735

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Gilder, Gagnon & Howe & Co., LLC	Portfolio Manager	August 1, 2014
New Registration	Sodhi Asset Management Inc.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	August 1, 2014
Voluntary Surrender of Registration	Linkgate Capital Corp.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	August 6, 2014

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.3 Clearing Agencies

13.3.1 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Risk Manual of the Canadian Derivatives Clearing Corporation to address the Concentration Risk

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE RISK MANUAL TO ADDRESS THE CONCENTRATION RISK

The Ontario Securities Commission is publishing for public comment the proposed amendments to the risk manual of CDCC. These changes are intended to address the Concentration Risk in the margin requirement requested by CDCC from its Clearing Members, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.2 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Operations Manual and Risk Manual of the Canadian Derivatives Clearing Corporation to address the Mismatched Settlement Risk in the margin calculation

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE OPERATIONS MANUAL AND RISK MANUAL
TO ADDRESS THE SETTLEMENT RISK IN THE MARGIN CALCULATION

The Ontario Securities Commission is publishing for public comment the proposed amendments to the Operations Manual and Risk Manual of CDCC. These changes are intended to address the Settlement Risk for Fixed Income transactions in the calculation of the margin requirement currently requested by CDCC from its Clearing Members, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.3 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Risk Manual of the Canadian Derivatives Clearing Corporation to address the close-out periods in the margin calculation

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE RISK MANUAL TO ADDRESS
THE CLOSE-OUT PERIODS IN THE MARGIN CALCULATION

The Ontario Securities Commission is publishing for public comment the proposed amendments to the risk manual of CDCC. These changes are intended to set appropriate minimal number of liquidation days (close-out periods) per instrument and consider the impact of concentration on such liquidation horizon, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.4 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Operations Manual and Risk Manual of the Canadian Derivatives Clearing Corporation to address additional margin for specific wrong-way risk

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE OPERATIONS MANUAL AND RISK MANUAL
TO ADDRESS ADDITIONAL MARGIN FOR SPECIFIC WRONG-WAY RISK

The Ontario Securities Commission is publishing for public comment the proposed amendments to the Operations Manual and Risk Manual of CDCC. These changes are intended to address the specific wrong-way risk identified by CDCC, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.5 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Risk Manual of the Canadian Derivatives Clearing Corporation to address the collateral haircuts

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE RISK MANUAL TO ADDRESS COLLATERAL HAIRCUTS

The Ontario Securities Commission is publishing for public comment the proposed amendments to the risk manual of CDCC. These changes are intended to enhance the approach used to assess its haircuts and limit procyclicality of haircuts, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.6 CDCC – OSC Staff Notice of Request for Comment – Amendments to the Risk Manual of the Canadian Derivatives Clearing Corporation to address procyclicality of margin

OSC STAFF NOTICE OF REQUEST FOR COMMENT
CDCC CANADIAN DERIVATIVES CLEARING CORPORATION
AMENDMENTS TO THE RISK MANUAL TO ADDRESS PROCYCLICALITY OF MARGIN

The Ontario Securities Commission is publishing for public comment the proposed amendments to the risk manual of CDCC. These changes are intended to implement a new margining framework to limit the procyclicality observed with the current Initial Margin model, as well as ensure CDCC complies with the Committee on Payment and System Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMIs), by remediating any gaps CDCC has in order to comply with the PFMIs. The public comment period ends on September 15, 2014.

A copy of the CDCC notice is published on our website at http://www.osc.gov.on.ca.

13.3.7 Notice of Commission Approval – Material Amendments to CDS Rules – Financial Institutions

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENT TO CDS RULES

FINANCIAL INSTITUTIONS

NOTICE OF COMMISSION APPROVAL

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on August 12, 2014, with terms and conditions, an amendment filed by CDS to its rules relating to the definition of "financial institution". The amendment will revise the definition to include Schedule III banks, as defined in the *Bank Act*.

The Commission's approval of the amendment is subject to terms and conditions related to CDS's plans to address gaps in its compliance with certain aspects of the international standards set out in the CPSS-IOSCO Principles for financial market infrastructures report (PFMI Remediation Plan). The Bank of Canada also will play a role in monitoring foreign bank applicants to CDS. The Commission's terms and conditions of the approval are as follows:

1. that CDS revise as appropriate, by the end of 2014, its system operating cap formulas in accordance with its PFMI Remediation Plan;

2. that until the revision of the system operating cap formulas is complete and approved by the provincial authorities and the Bank of Canada, CDS will, in respect of any prospective Schedule III bank applicant seeking to become a participant of its services in the extender of credit, federated participant or settlement agent participant categories,

    (a) require that the applicant comply with any requests for information made by the Governor of the Bank of Canada pursuant to subsection 22.1(1) of the *Payment Clearing and Settlement Act*, and

    (b) require that the applicant comply with any conditions imposed by the Governor of the Bank of Canada pursuant to subsection 22.1(2) of *the Payment Clearing and Settlement Act*.

A copy and description of the rule amendments were published for comment on February 13, 2014 at (2014) 37 OSCB 1784. No comments were received.

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