



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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

**- AND -**

**IN THE MATTER OF  
FACTORCORP INC., FACTORCORP FINANCIAL INC., AND  
MARK IVAN TWERDUN**

**ORDER  
(Sections 127(1) of the *Securities Act*)**

**WHEREAS** by Order of the Superior Court of Justice dated October 17, 2007, KPMG Inc. (“KPMG”) was appointed Receiver and Manager (the “Receiver”) over the assets, undertakings and properties of FactorCorp and FactorCorp Financial and by Order of the Superior Court of Justice dated October 30, 2007, the appointment of the Receiver was confirmed and extended until further Order of the Court. The Receiver was discharged by Court Order dated March 18, 2009;

**AND WHEREAS** by Order of the Superior Court of Justice dated March 25, 2008, FactorCorp and FactorCorp Financial were adjudged bankrupt, a Bankruptcy Order was made against FactorCorp and FactorCorp Financial and KPMG was appointed Trustee of the Estates of FactorCorp and FactorCorp Financial (the “Trustee”);

**AND WHEREAS** on May 12, 2009 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, accompanied by a Statement of Allegations (the “Statement of Allegations”) filed by Staff of the Commission on the same date against Factorcorp Inc., Factorcorp Financial Inc., and Mark Twerdun (“Twerdun”);

**AND WHEREAS** on May 12, 2009 a temporary order was continued against Twerdun, as varied on October 26, 2009, until this proceeding is concluded and a decision of the Commission is rendered or until the Commission considers it appropriate;

**AND WHEREAS** Twerdun brought a motion for particulars by Notice of Motion dated September 25, 2009;

**AND WHEREAS** on October 5, 2009, Staff consented to an order that it provide a reply to the demand for particulars;

**AND WHEREAS** Staff provided a reply to the demand for particulars on November 2, 2009 with the agreement of Twerdun;

**AND WHEREAS** on December 16, 2009, the Commission ordered that a motion brought by Twerdun to address an issue in respect of the cooperation of witnesses be heard on February 4, 2010;

**AND WHEREAS** on February 4, 2010, Twerdun brought a motion for disclosure and to address an issue in respect of the cooperation of witnesses;

**AND WHEREAS** on February 4, 2010, Staff consented to provide a letter to potential witnesses clarifying their ability to cooperate with Twerdun in this matter if they so desired and to obtain documents from the Trustee;

**AND WHEREAS** on February 5, 2010, Staff provided to Twerdun a letter to potential witnesses clarifying their ability to cooperate with Twerdun in this matter if they so desired;

**AND WHEREAS** on May 6, 2010 and July 30, 2010, following receipt of certain documents from the Trustee, Staff provided disclosure to Twerdun of documents sought by him by motion on February 4, 2010;

**AND WHEREAS** Staff and the Respondents have agreed to schedule the hearing on the merits for three weeks in September 2011;

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

**IT IS HEREBY ORDERED** that the hearing on the merits shall commence on September 12, 2011 and continue to September 30 except for September 20, 2011.

**DATED** at Toronto, this 22<sup>nd</sup> day of October 2010

*“James Turner”*

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