The Ontario Securities Commission

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March 12, 2010

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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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1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

MARCH 12, 2010

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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20 Queen Street West
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Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

March 22 – April 16, 2010 10:00 a.m.	**Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 M. Britton/J.Feasby in attendance for Staff Panel: JDC/KJK
March 22, 2010 10:00 a.m.	**Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk** s. 37, 127 and 127.1 C. Price in attendance for Staff Panel: CSP
March 22, 2010 11:30 a.m.	**Chartcandle Investments Corporation, CCI Financial, LLC, Chartcandle Inc., PSST Global Corporation, Stephen Michael Chesnowitz and Charles Pauly** s. 127 and 127.1 S. Horgan in attendance for Staff Panel: CSP
March 22, 2010 2:00 p.m.	**Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya** s. 127 C. Price in attendance for Staff Panel: DLK

March 25-26, 2010 10:00 a.m.	**Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmoney, Harmoney Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale** s.127 H. Craig in attendance for Staff Panel: TBA
March 25-26, 2010 10:00 a.m.	**W.J.N. Holdings Inc., MSI Canada Inc., 360 Degree Financial Services Inc., Dominion Investments Club Inc., Leveragepro Inc., Prosporex Investment Club Inc., Prosporex Investments Inc., Prosporex ltd., Prosporex Inc., Networth Financial Group Inc., Networth Marketing Solutions, Dominion Royal Credit Union, Dominion Royal Financial Inc., Wilton John Neale, Ezra Douse, Albert James, Elnonieth "Noni" James, David Whitely, Carlton Ivanhoe Lewis, Mark Anthony Scott, Sedwick Hill, Trudy Huynh, Dorlan Francis, Vincent Arthur, Christian Yeboah, Azucena Garcia, Angela Curry and Prosporex Forex SPV Trust** s. 127 H. Daley in attendance for Staff Panel: CSP
March 29; March 31 – April 9, 2010 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 and 127(1) C. Price in attendance for Staff
March 30, 2010 2:30 p.m.	Panel: JEAT/PLK
March 30, 2010 2:30 p.m.	**Anthony Ianno and Saverio Manzo** s. 127 and 127.1 A. Clark in attendance for Staff Panel: CSP
April 5, 2010 10:00 a.m.	**Teodosio Vincent Pangia** s. 127 A. Heydon in attendance for Staff Panel: PJL/CSP
April 12, 2010 9:00 a.m.	**Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York** s. 127 H. Craig in attendance for Staff Panel: DLK
April 12, 2010 9:00 a.m.	**York Rio Resources Inc., Brilliante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale** s. 127 H. Craig in attendance for Staff Panel: DLK
April 12, 2010 9:15 a.m.	**Peter Robinson and Platinum International Investments Inc.** s. 127 M. Boswell in attendance for Staff Panel: DLK
April 12, 2010 9:30 a.m.	**Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan** s. 127 M. Boswell in attendance for Staff Panel: DLK

April 12, 2010 9:45 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Boswell in attendance for Staff Panel: DLK
April 12, 2010 10:00 a.m.	**Abel Da Silva** s. 127 M. Boswell in attendance for Staff Panel: DLK
April 13, 2010 2:30 p.m.	**Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver and David Rutledge, Steven M. Taylor and International Communication Strategies** s. 127 M. Adams in attendance for Staff Panel: TBA
April 13, 2010 2:30 p.m. April 14; April 23-30, 2010 10:00 a.m.	**M P Global Financial Ltd., and Joe Feng Deng** s. 127(1) M. Britton in attendance for Staff Panel: DLK/MCH
April 21, 2010 10:00 a.m.	**Tulsiani Investments Inc. and Sunil Tulsiani** s. 127 M. Vaillancourt/T. Center in attendance for Staff Panel: JEAT
April 21, 2010 10:00 a.m.	**Maple Leaf Investment Fund Corp. and Joe Henry Chau** s. 127 M. Vaillancourt/T. Center in attendance for Staff Panel: JEAT
May 10 – June 2, 2010 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Sextant Strategic Opportunities Hedge Fund L.P., Otto Spork, Robert Levack and Natalie Spork** s. 127 S. Kushneryk in attendance for Staff Panel: PJL/MCH
May 31 – June 4, 2010 10:00 a.m.	**Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie** s. 127(1) and (5) J. Feasby in attendance for Staff Panel: TBA
June 21, 2010 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Chris Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc. and Sylvan Blackett** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: TBA
June 28, 2010 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: TBA
June 29, 2010 10:00 a.m.	**Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang** s. 127 and 127.1 M. Britton in attendance for Staff Panel: TBA

July 9, 2010 10:00 a.m.	**Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, Daryl Renneberg and Danny De Melo** s. 127 A. Clark in attendance for Staff Panel: CSP	TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
July 9, 2010 11:30 a.m.	**Global Energy Group, Ltd. And New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: CSP	TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
September 13 – 24, 2010 10:00 a.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 S. Kushneryk in attendance for Staff Panel: TBA	TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 K. Daniels in attendance for Staff Panel: TBA
September 13-24, 2010 October 4-19, 2010 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd., Petar Vucicevich, Kore International Management Inc., Andrew Devries, Steven Sulja, Pranab Shah, Tracey Banumas and Sam Sulja** s. 127 and 127.1 J. Feasby in attendance for Staff Panel: TBA	TBA	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
March 7, 2011 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA	TBA	**Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin** s. 127 H. Craig in attendance for Staff Panel: TBA
		TBA	**Gregory Galanis** s. 127 P. Foy in attendance for Staff Panel: TBA

TBA

Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling

s. 127(1) and 127.1

J. Superina, A. Clark in attendance for Staff

Panel: TBA

TBA

Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA

FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric

s. 127 and 127(1)

D. Ferris in attendance for Staff

Panel: TBA

TBA

Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony

s. 127 and 127.1

J. Feasby in attendance for Staff

Panel: TBA

TBA

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

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA

Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson

s. 127(1) and 127(5)

M. Boswell in attendance for Staff

Panel: TBA

TBA

Coventree Inc., Geoffrey Cornish and Dean Tai

s. 127

J. Waechter in attendance for Staff

Panel: TBA

TBA

IBK Capital Corp. and William F. White

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA	**Lehman Cohort Global Group Inc., Anton Schnedl, Richard Unzer, Alexander Grundmann and Henry Hehlsinger** s. 127 H. Craig in attendance for Staff Panel: JEAT/CSP/SA	
TBA	**Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance** s. 127 C. Johnson in attendance for Staff Panel: TBA	
TBA	**Maple Leaf Investment Fund Corp., Joe Henry Chau (aka: Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow), Tulsiani Investments Inc., Sunil Tulsiani and Ravinder Tulsiani** s. 127 M. Vaillancourt/T. Center in attendance for Staff Panel: TBA	
TBA	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA	

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

S. B. McLaughlin

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

Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg

Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow

Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, John Andrew, Vincent Cataldi, Charlotte Chambers, Carl Dylan, James Eulo, Richard Garcia, Troy Gray, Jim Kaufman, Timothy Kaufman, Chris Harris, Morgan Kimmel, Roger A. Kimmel, Jr., Erik Luna, Mitch Malizio, Adam Mills, Jenna Pelusio, Rosemary Salveggi, Stephen J. Shore and Chris Spinler

LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia

Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson

Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group

1.1.2 Executive Director's Designation and Determination

On March 4, 2010, the Executive Director of the Ontario Securities Commission issued a new Designation and Determination. The new Designation and Determination revokes and restates the previous Designation and Determination of the Executive Director that was issued on August 16, 2007.

Under the new Designation and Determination, the new positions of Senior Registration Supervisor and Registration Supervisor, in the Compliance and Registrant Regulation Branch of the Commission, were added to the positions previously designated by the Executive Director for the purposes of the definition of "Director" in the *Securities Act* (Ontario).

The new Designation and Determination is published in Chapter 2.2 of this Bulletin.

1.2 Notices of Hearing

1.2.1 York Rio Resources Inc. et al. – ss. 37, 127, 127.1

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

AND

IN THE MATTER OF
YORK RIO RESOURCES INC.,
BRILLIANTE BRASILCAN RESOURCES CORP.,
VICTOR YORK, ROBERT RUNIC,
GEORGE SCHWARTZ, PETER ROBINSON,
ADAM SHERMAN, RYAN DEMCHUK,
MATTHEW OLIVER, GORDON VALDE AND
SCOTT BASSINGDALE

NOTICE OF HEARING
(Sections 37, 127 and 127.1)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37, 127, and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on March 3, 2010 at 10 a.m., or as soon thereafter as the hearing can be held, to consider:

(i) whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act to order that:

(a) trading in any securities by York Rio Resources Inc. (“York Rio”), Brilliante Brasilcan Resources Corp. (“Brilliante”), Victor York (“York”), Robert Runic (“Runic”), George Schwartz (“Schwartz”), Peter Robinson (“Robinson”), Adam Sherman (“Sherman”), Ryan Demchuk (“Demchuk”), Matthew Oliver (“Oliver”), Gordon Valde (“Valde”), and Scott Bassingdale (“Bassingdale”), (collectively the "Respondents") cease permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) each of the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law;

(e) the Respondents be reprimanded;

(f) York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale (collectively the "Individual Respondents") resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(g) the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;

(h) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager and as a promoter;

(i) the Respondents each pay an administrative penalty of not more than $1 million for each failure by that respondent to comply with Ontario securities law; and,

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing.

(ii) whether, in the opinion of the Commission, an order should be made pursuant to section 37 of the Act that the Respondents cease permanently to telephone from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and,

(iii) whether to make such further orders as the Commission considers appropriate.

BY REASON OF the allegations as set out in the Statement of Allegations of Staff of the Commission dated March 2, 2010 and such further additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceedings.

DATED at Toronto this 2nd day of March, 2010

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
YORK RIO RESOURCES INC.,
BRILLIANTE BRASILCAN RESOURCES CORP.,
VICTOR YORK, ROBERT RUNIC,
GEORGE SCHWARTZ, PETER ROBINSON,
ADAM SHERMAN, RYAN DEMCHUK,
MATTHEW OLIVER, GORDON VALDE AND
SCOTT BASSINGDALE

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

I. OVERVIEW

1. This proceeding involves the distribution of securities of York-Rio Resources Inc., a company incorporated separately in both Ontario and Nevada (collectively, "York Rio"), and Brilliante Brasilcan Resources Corp. ("Brilliante"), a company incorporated in Ontario, to members of the public.

2. Staff allege that course of conduct regarding the trading of York Rio securities occurred during the period from May 10, 2004 up to October 21, 2008 (the "Material Time").

3. Staff allege that course of conduct regarding the trading of Brilliante securities occurred during the Material Time, more specifically from January 17, 2007 up to October 21, 2008.

II. THE CORPORATE RESPONDENTS

4. York Rio was incorporated in Ontario on May 10, 2004 by Victor York ("York"). York Rio was subsequently incorporated in Nevada in May of 2006.

5. York Rio has never been registered with the Ontario Securities Commission (the "Commission") in any capacity.

6. The primary business of York Rio was selling securities in York Rio.

7. Brilliante was incorporated in Ontario in January 19, 2007. Brian Aidelman ("Aidelman") who was the son-in-law of Victor York and was the sole registered Director of Brilliante.

8. Brilliante has never been registered with the Commission in any capacity.

9. The primary business of Brilliante was selling securities of Brilliante.

III. THE INDIVIDUAL RESPONDENTS

10. York was a resident of Ontario. He the sole registered director of York Rio at the time of its creation and throughout the Material Time. York was also one of the directing minds of Brilliante.

11. Robert Runic ("Runic") was a resident of Ontario and was initially a salesperson of York Rio securities. In August of 2007, Runic then became one of the directing minds of York Rio and Brilliante by virtue of his role in the trading of York Rio and Brilliante securities.

12. George Schwartz ("Schwartz") is a resident of Ontario and was one of the directing minds of York Rio by virtue of his role in the trading of York Rio securities.

13. Adam Sherman ("Sherman") and Peter Robinson ("Robinson") were both residents of Ontario and were salespersons of York Rio securities.

14. Ryan Demchuk ("Demchuk"), Matthew Oliver ("Oliver"), Gordon Valde ("Valde") and Scott Bassingdale ("Bassingdale") were all residents of Ontario and were all salespersons of York Rio and Brilliante securities.

15. York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale were not registered with the Commission in any capacity during the Material Time.

IV. YORK RIO

- **Unregistered Trading in Securities of York Rio Contrary to Section 25(1)**

16. Staff allege that York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale traded in securities of York Rio from locations in Ontario during the Material Time.

17. Members of public in Ontario and elsewhere in Canada were called by salespersons, agents and representatives of York Rio and were solicited to purchase York Rio securities.

18. Approximately $18 million was raised from the sale of York Rio securities to investors (the "York Rio Investors") as a result of being solicited to do so by the salespersons, representatives or agents of York Rio from locations in Ontario.

19. The actions of York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale related to York Rio securities constituted the trading of securities without registration contrary to section 25(1) of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended (the "Act")

- **Prohibited Representations Contrary to Section 38(3)**

20. The salespersons, representatives and agents of York Rio, including York, Runic, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale, represented to members of the public that York Rio would be listed on a stock exchange.

21. As required by section 38(3) of the Act, the Commission had not provided permission to York Rio or its salespersons, representatives or agents to make these representations regarding a listing of York Rio on a stock exchange.

22. The making of these representations by York, Runic, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale were contrary to section 38(3) of the Act.

- **Illegal Distribution of Securities of York Rio Contrary to Section 53(1)**

23. York Rio has never filed a prospectus or a preliminary prospectus with the Commission or obtained receipts for them from the Director as required by section 53(1) of the Act.

24. The trading of York Rio securities as set out above constituted distributions of York Rio securities by York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale in circumstances where there were no exemptions available to them under the Act contrary to section 53(1) of the Act.

- **Fraudulent Conduct Related to Trading in York Rio Securities Contrary to Section 126.1**

25. During the Material Time from locations in Ontario, York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale and other representatives or agents of York Rio provided information to the York Rio Investors that was false, inaccurate and misleading, including, but not limited to, the following:

    (a) that York Rio owned or held interests in certain mining properties in Brazil;

    (b) that these York Rio mining properties in Brazil were currently producing diamonds;

    (c) that York Rio was going to go public; and

    (d) that numerous companies has approached York Rio with a view to taking over York Rio.

    These and other false, inaccurate, misleading representations and omissions were made with the intention of effecting trades in York Rio securities.

26. Salespersons, representatives and agents of York Rio used aliases when selling York Rio securities to members of the public. The directing minds of York Rio were aware that aliases were being used when York Rio securities were sold to members of the public.

27. Approximately 70% of the total funds raised through the sale of York Rio securities were paid in commissions to salespersons including Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale. The York Rio Investors were not informed of this fact.

28. York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale and other salespersons, representatives and agents of York Rio engaged in a course of conduct relating to securities that they knew or reasonably ought to have known would result in a fraud on persons purchasing securities of York Rio contrary to section 126.1 of the Act.

- **Breach of Commission Order by Schwartz Contrary to Section 122(1)**

29. Schwartz was prohibited from trading in securities by the Commission as a result of a temporary cease trade order originally made against Schwartz and Euston Capital Corp. ("Euston") on May 1, 2006 (the "Temporary Order"). The Temporary Order was extended as against Schwartz and Euston on May 11, June 9, October 17, and December 4, 2006 and the Temporary Order remained in effect during the Material Time.

30. Schwartz traded in the securities of York Rio during the Material Time and by so doing violated Ontario securities laws.

V. BRILLIANTE

- **Trading in Securities of Brilliante Contrary to Section 25(1)**

31. Staff allege that Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale traded in securities of Brilliante from locations in Ontario during the Material Time.

32. Members of the public in Ontario and elsewhere in Canada received calls from salespersons, agents and representatives of Brilliante and were solicited to purchase Brilliante securities.

33. Approximately $150,000 was received from investors that purchased Brilliante securities (the "Brilliante Investors") as a result of being solicited to do so by the salespersons, agents and representatives of Brilliante.

34. The actions of York, Runic, Demchuk, Oliver, Valde and Bassingdale related to Brilliante securities constituted the trading of securities without registration contrary to section 25(1) of the Act.

- **Prohibited Representations Contrary to Section 38(3)**

35. The salespersons, agents and representatives of Brilliante, including Demchuk, Oliver, Valde and Bassingdale, represented to members of the public that Brilliante would be listed on a stock exchange.

36. As required by section 38(3) of the Act, the Commission had not provided permission to Brilliante or its salespersons, agents and representatives to make these representations regarding a listing of Brilliante on a stock exchange.

37. The making of these representations by Demchuk, Oliver, Valde and Bassingdale were contrary to section 38(3) of the Act.

- **Illegal Distribution of Securities of Brilliante Contrary to Section 53(1)**

38. Brilliante has never filed a prospectus or a preliminary prospectus with the Commission or obtained receipts for them from the Director as required by section 53(1) of the Act.

39. The trading of Brilliante securities as set out above constituted distributions of Brilliante securities by Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale in circumstances where there were no exemptions available to them under the Act contrary to section 53(1) of the Act.

- **Fraudulent Conduct Related to Trading in Brilliante Securities**

40. During the Material Time from locations in Ontario, Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale and representatives or agents of Brilliante provided information to the Brilliante Investors that was false, inaccurate and misleading, including, but not limited to, the following:

(a) that Brilliante owned interests in certain mining properties in Brazil;

(b) false and misappropriated information on the Brilliante website describing the business of Brilliante;

(c) false information about the sole registered director of Brilliante: and

(d) false information contained in the business plan of Brilliante.

These and other false, inaccurate, misleading representations and omissions were made with the intention of effecting trades in Brilliante securities.

41. Salespersons, representatives and agents of Brilliante used aliases when selling Brilliante securities to members of the public. The directing minds of Brilliante were aware that aliases were being used when Brilliante securities were sold to members of the public.

42. Approximately 70% of the total funds raised through the sale of Brilliante securities were paid in commissions to salespersons including Runic, Demchuk, Oliver, Valde and Bassingdale. The Brilliante Investors were not informed of this fact.

43. Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale and salespersons, representatives and agents of Brilliante engaged in a course of conduct relating to securities that they knew or reasonably ought to have known would result in a fraud on persons purchasing securities of Brilliante.

VI. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST RELATED TO YORK RIO

44. The specific allegations advanced by Staff related to the trades in York Rio securities during the Material Time are as follows:

(a) York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale traded in securities without being registered to trade in securities, contrary to section 25(1)(a) of the Act and contrary to the public interest;

(b) York, Runic, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale made prohibited representations that York Rio securities were to be listed on a stock exchange, contrary to section 38(3) of the Act and contrary to the public interest;

(c) The actions of York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale related to the sale of York Rio securities constituted distributions of securities of York Rio where no preliminary prospectus and prospectus were issued nor receipted by the Director, contrary to section 53(1) of the Act and contrary to the public interest;

(d) York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale engaged or participated in acts, practices or courses of conduct relating to securities of York Rio that York Rio, York, Runic, Schwartz, Robinson, Sherman, Demchuk, Oliver, Valde and Bassingdale knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act and contrary to the public interest;

(e) York, Runic and Schwartz, being directors and/or officers of York Rio, did authorize, permit or acquiesce in the commission of the violations of sections 25(1)(a), 38(3), 53(1) and 126.1(b) of the Act, as set out above, by York Rio or by the salespersons, representatives or agents of York Rio, contrary to section 129.2 of the Act and contrary to the public interest; and

(f) Schwartz violated Ontario securities laws by trading in securities while he was prohibited from doing so by order of the Commission, contrary to section 122(1)(c) of the Act and contrary to the public interest.

VII. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST RELATED TO BRILLIANTE

45. The specific allegations advanced by Staff related to the trades in Brilliante securities during the Material Time are as follows:

(a) Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale traded in securities without being registered to trade in securities, contrary to section 25(1)(a) of the Act and contrary to the public interest;

(b) Demchuk, Oliver, Valde and Bassingdale made prohibited representations that York Rio securities were to be listed on a stock exchange, contrary to section 38(3) of the Act and contrary to the public interest;

(c) The actions of Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale related to the sale of Brilliante securities constituted distributions of securities of Brilliante where no preliminary prospectus and prospectus were issued nor receipted by the Director, contrary to section 53(1) of the Act and contrary to the public interest;

(d) Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale engaged or participated in acts, practices or courses of conduct relating to securities of York Rio that Brilliante, York, Runic, Demchuk, Oliver, Valde and Bassingdale knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act and contrary to the public interest;

(e) York and Runic, being directors and/or officers of Brilliante, did authorize, permit or acquiesce in the commission of the violations of sections 25(1)(a), 38(3), 53(1) and 126.1(b) of the Act, as set out above, by Brilliante or by the salespersons, representatives or agents of Brilliante, contrary to section 129.2 of the Act and contrary to the public interest.

46. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, March 2, 2010.

1.2.2 Innovative Gifting Inc. et al. – 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
INNOVATIVE GIFTING INC.,
TERENCE LUSHINGTON, Z2A CORP., AND
CHRISTINE HEWITT

NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on March 5th, 2010 at 10:30 a.m., or as soon thereafter as the hearing can be held, to consider:

(i) whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act to order that:

(a) trading in any securities by Innovative Gifting Inc. (“IGI”), Terence Lushington (“Lushington”), Z2A Corp. (“Z2A”), and Christine Hewitt (“Hewitt”) (collectively the "Respondents") cease permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) each of the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law;

(e) the Respondents be reprimanded;

(f) Lushington and Hewitt (collectively the "Individual Respondents") resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(g) the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;

(h) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager and as a promoter;

(i) the Respondents each pay an administrative penalty of not more than $1 million for each failure by that respondent to comply with Ontario securities law; and,

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing;

(ii) whether to make such further orders as the Commission considers appropriate.

BY REASON OF the allegations as set out in the Statement of Allegations of Staff of the Commission dated March 2nd, 2010 and such further additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceedings.

DATED at Toronto this 2nd day of March, 2010

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
INNOVATIVE GIFTING INC.,
TERENCE LUSHINGTON, Z2A CORP., AND
CHRISTINE HEWITT

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

I. THE RESPONDENTS

1. Strategic Gifting Inc. was incorporated in Ontario in September, 2008. Peter Robinson ("Robinson") was listed as the sole Director at the time of incorporation of Strategic Gifting Inc.

2. Two days after the incorporation of Strategic Gifting Inc., Robinson changed the name of the company to Innovative Gifting Inc. ("IGI").

3. On September 17, 2008, Terence Lushington ("Lushington") became the sole Director of IGI and the registered address was changed to an address in Markham, Ontario.

4. Z2A Corp. ("Z2A") was incorporated in Ontario in June, 2005. Christine Hewitt ("Hewitt") is the President of Z2A and is the sole registered Director of Z2A.

5. Lushington and Hewitt are residents of Ontario.

II. BACKGROUND

- **Trading in Securities**

6. Staff allege that IGI, Lushington, Z2A, and Hewitt (collectively the "Respondents") traded in securities of RCT Global Networks Inc. ("RCT") between and including September, 2008 and January, 2009 (the "Material Time").

7. The Respondents were not registered with the Ontario Securities Commission (the "Commission") in any capacity during the Material Time.

8. During the Material Time, residents of Ontario and elsewhere in Canada received unsolicited phone calls from salespersons, agents and represen-tatives of IGI and were solicited to participate in IGI's "charitable gifting program" (the "IGI Program").

9. The IGI Program was described as one where the participants would donate a certain amount of cash to a charity and, in exchange, the participants would receive shares of RCT with a fair market value of six to eight times the cash donated by the participant.

10. The IGI Program also stipulated that the shares gifted to the participant were subject to a mandatory five year hold period if the shares were not subsequently gifted to a charity in 2008.

11. IGI charged a fund-raising fee to the charities that was equivalent to 90% of the cash donated by the participants.

12. Z2A acted in furtherance of the trades made by IGI.

13. The Respondents participated in acts, solicitations, conduct, or negotiations directly or indirectly in furtherance of the sale or disposition of securities for valuable consideration, in circumstances where there were no exemptions available to the Respondents under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

- **Fraudulent Conduct**

14. The IGI Program was described as being initiated by a non-resident Swiss philanthropist who would match the participants' cash donations to charities with a certain number of minority, non-control shares trading on the Frankfurt Stock Exchange. The IGI Program indicated that the fair market value of the shares received by the participants would be six to eight times the amount of cash donated by the participant to the charity.

15. There was no non-resident Swiss philanthropist.

16. A company called Mobiliare Argenti Ltd. ("Mobiliare") acquired, for valuable consideration, options to purchase eight million shares of RCT.

17. Mobiliare exercised these options at the direction of Z2A and caused share certificates to be issued in the names of the participants in the IGI Program.

18. Mobiliare was compensated by Z2A for exercising the options and having the shares issued in the names of the participants in the IGI Program.

19. Z2A was compensated by IGI for arranging for the issuance of the RCT shares in the names of the participants in the IGI Program.

20. Participants in the IGI Program were not informed that IGI charged a fund raising fee to the charities equal to 90% of the cash donation made by the participant.

21. During the Material Time, approximately $2.1 million was collected from participants in the IGI Program. There were approximately five hundred persons who participated in the IGI Program during the Material Time.

III. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

22. The specific allegations advanced by Staff are:

    (a) During the Material Time, IGI and Lushington engaged or participated in acts, practices or courses of conduct relating to securities that the Respondents knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act and contrary to the public interest;

    (b) During the Material Time, the Respondents traded in securities of RCT without being registered to trade in securities, contrary to section 25(1)(a) of the Act and contrary to the public interest;

    (c) During the Material Time, Lushington, being a director and officer of IGI, did authorize, permit or acquiesce in the commission of the violations of sections 25, 53 and 126.1 of the Act, as set out above, by IGI or by the employees, agents or representatives of IGI, contrary to section 129.2 of the Act and contrary to the public interest; and

    (d) During the Material Time, Hewitt, being a director and officer of Z2A, did authorize, permit or acquiesce in the commission of the violations of sections 25, and 53 of the Act, as set out above, by Z2A or by the employees, agents or representatives of Z2A, contrary to section 129.2 of the Act and contrary to the public interest.

23. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, March 2nd, 2010.

1.2.3 Uranium308 Resources Inc. et al. – ss. 37, 127, 127.1

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

AND

IN THE MATTER OF
URANIUM308 RESOURCES INC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, AND SHAFI KHAN

NOTICE OF HEARING
(Sections 37, 127 and 127.1)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37, 127, and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on March 5th, 2010 at 10:30 a.m., or as soon thereafter as the hearing can be held, to consider:

(i) whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act to order that:

(a) trading in any securities by Uranium308 Resources Inc. (“Uranium308”), Michael Friedman (“Friedman”), George Schwartz (“Schwartz”), Peter Robinson (“Robinson”), and Shafi Khan (“Khan”) (collectively the "Respondents") cease permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) each of the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law;

(e) the Respondents be reprimanded;

(f) Friedman, Schwartz, Robinson, and Khan (collectively the "Individual Respondents") resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(g) the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;

(h) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager and as a promoter;

(i) the Respondents each pay an administrative penalty of not more than $1 million for each failure by that respondent to comply with Ontario securities law; and,

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing.

(ii) whether, in the opinion of the Commission, an order should be made pursuant to section 37 of the Act that the Respondents cease permanently to telephone from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and,

(iii) whether to make such further orders as the Commission considers appropriate.

BY REASON OF the allegations as set out in the Statement of Allegations of Staff of the Commission dated March 2nd, 2010 and such further additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceedings.

DATED at Toronto this 2nd day of March, 2010

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
URANIUM308 RESOURCES INC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, AND SHAFI KHAN

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

I. THE RESPONDENTS

1. Uranium308 Synergies Inc. ("Synergies") was incorporated in Ontario in April, 2007.

2. On June 7, 2007, the corporate name of Synergies was changed to Uranium308 Resources Inc. ("Uranium308").

3. Michael Friedman ("Friedman") is the sole registered Director of Uranium308 and the President of Uranium308. Friedman is a resident of Ontario.

4. George Schwartz ("Schwartz") is a resident of Ontario and was a directing mind of Uranium308.

5. Peter Robinson ("Robinson") is a resident of Ontario and was a salesperson of Uranium308 securities.

6. Shafi Khan ("Khan") is a resident of Ontario and was a salesperson of Uranium308 securities.

II. BACKGROUND

- **Trading in Securities of Uranium308**

7. Staff allege that Uranium308, Friedman, Schwartz, Robinson and Khan (collectively the "Respondents") traded in securities of Uranium308 between and including July 1, 2007 and December 31, 2008 (the "Material Time").

8. The Respondents traded in securities of Uranium308 from offices in the Toronto area. The Uranium308 website and investor relations documents showed two addresses for Uranium308 that differed from the actual office address. The publicly disclosed addresses were virtual offices.

9. Uranium308 never filed a prospectus or a preliminary prospectus with the Ontario Securities Commission (the "Commission").

10. Uranium308 has never been registered with the Commission.

11. Friedman, Schwartz, Robinson and Khan were not registered with the Commission in any capacity during the Material Time.

12. During the Material Time, Schwartz was prohibited from trading in securities by the Commission as a result of a temporary cease trade order originally made against Schwartz and Euston Capital Corp. ("Euston") on May 1, 2006 (the "Temporary Order"). The Temporary Order was extended as against Schwartz and Euston on May 11, June 9, October 17, and December 4, 2006 and the Temporary Order remained in effect during the Material Time.

13. During the Material Time, residents of Ontario and elsewhere in Canada received unsolicited phone calls from salespersons, agents and representatives of Uranium308 and were solicited to purchase shares of Uranium308.

14. The salespersons, agents and representatives of Uranium308 told potential investors that Uranium308 would be going public in the future. Potential investors were also told that Uranium308 owned certain properties in Zambia and New Mexico.

15. During the Material Time, approximately $2.3 million was received from over one hundred individuals and companies (collectively the "Investors") that purchased shares of Uranium308 as a result of being solicited to do so by the salespersons, agents and representatives of Uranium308.

16. The Respondents participated in acts, solicitations, conduct, or negotiations directly or indirectly in furtherance of the sale or disposition of securities for valuable consideration, in circumstances where there were no exemptions available to the Respondents under the *Securities Act*, R.S.O. 1990, c. S. 5, as amended (the "Act").

- **Fraudulent Conduct**

17. During the Material Time, the Respondents and other employees, representatives or agents of Uranium308 provided information to the Investors that was false, inaccurate and misleading, including, but not limited to, the following:

    (a) that Uranium308 owned certain properties in Zambia and New Mexico, U.S.A.; and

    (b) that the net proceeds of the sale of Uranium308 shares was to be used for the exploration and development of the Zambian and New Mexico properties.

18. The false, inaccurate and misleading representations were made with the intention of effecting trades in Uranium308 securities.

19. The Respondents and other employees, representatives or agents of Uranium308 engaged in a course of conduct relating to securities that they knew or reasonably ought to have known would result in a fraud on persons purchasing securities of Uranium308.

- **Misleading Staff of the Commission**

20. In May 2008, Friedman sent correspondence to Staff in response to certain inquiries made by Staff. Staff allege that this correspondence was written by Schwartz and signed by Friedman. Staff allege that several statements contained in this correspondence were, in a material respect and at the time and in light of the circumstances under which they were made, misleading or untrue. Staff allege that misleading or untrue statements were made with respect to, inter alia, the following: the nature of the operations of Uranium308, the role played by Schwartz in Uranium308, the financial situation of Uranium308, and the sale of Uranium308 shares to persons or companies in Ontario.

- **Breach of Commission Order**

21. During the Material Time, Schwartz was prohibited by the Commission from trading in securities. Staff allege that, during the Material Time, Schwartz traded in the securities of Uranium308 and, by so doing, violated Ontario securities laws.

III. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

22. The specific allegations advanced by Staff are:

    (a) During the Material Time, the Respondents engaged or participated in acts, practices or courses of conduct relating to securities of Uranium308 that the Respondents knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act and contrary to the public interest;

    (b) During the Material Time, the Respondents traded in securities without being registered to trade in securities, contrary to section 25(1)(a) of the Act and contrary to the public interest;

    (c) During the Material Time, Uranium308, Robinson, Khan and representatives of Uranium308 made representations without the written permission of the Director, with the intention of effecting a trade in securities of Uranium308, that such security would be listed on a stock exchange or quoted on any quotation and trade reporting system, contrary to section 38(3) of the Act and contrary to the public interest;

    (d) During the Material Time, the Respondents traded in securities of Uranium308 when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to section 53(1) of the Act and contrary to the public interest;

    (e) During the Material Time, Friedman and Schwartz, being directors and/or officers of Uranium308, did authorize, permit or acquiesce in the commission of the violations of sections 25, 38, 53 and 126.1 of the Act,

as set out above, by Uranium308 or by the employees, agents or representatives of Uranium308, contrary to section 129.2 of the Act and contrary to the public interest;

(f) During the Material Time, Friedman and Schwartz made statements to Staff that, in a material respect and at the time and in light of the circumstances under which they were made, were misleading or untrue, contrary to section 122(1)(a) of the Act and contrary to the public interest; and

(g) During the Material Time, Schwartz violated Ontario securities laws by trading in securities while he was prohibited from doing so by order of the Commission, contrary to section 122(1)(c) of the Act and contrary to the public interest.

23. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, March 2nd, 2010.

1.2.4 Anthony Ianno and Saverio Manzo – 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
ANTHONY IANNO AND SAVERIO MANZO

NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario commencing on Tuesday March 30, 2010 at 2:30 pm or as soon thereafter as the hearing can be held.

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider whether it is in the public interest for the Commission, pursuant to ss. 127 and 127.1 of the Act to order that:

(a) the respondents Anthony Ianno and Saverio Manzo (together, the "Respondents") cease trading in any securities permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) the Respondents be reprimanded;

(e) the Respondents resign one of more positions that they hold as director or officer of any issuer;

(f) the Respondents be prohibited from becoming or acting as a director or officer of any issuer;

(g) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(h) the Respondents pay an administrative penalty of not more than $1,000,000 for each failure by that Respondent to comply with Ontario securities law;

(i) the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law;

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing; and

(k) such other orders as the Commission may deem appropriate.

BY REASON of the allegations as set out in the Statement of Allegations dated March 8, 2010 in this matter and such further allegations as counsel may advise and the Commission may permit.

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel at the hearing.

AND TAKE FURTHER NOTICE that upon failure of any party to attend at this time and place, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceedings.

DATED at Toronto this 8th day of March, 2010.

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
ANTHONY IANNO AND SAVERIO MANZO

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission make the following allegations:

The Respondents

1. Anthony Ianno ("Ianno") is an individual resident in Ontario.

2. Saverio Manzo ("Manzo") is an individual resident in Ontario. Between 1992 and 2003, Manzo was registered with the Commission as a mutual fund salesman.

Covalon Technologies

3. Covalon Technologies Ltd. ("Covalon") is a reporting issuer in Ontario that trades on the Toronto Stock Exchange Venture Exchange ("TSXV") under the trading symbol "COV". Covalon is a medical biosystems company.

Overview of the Respondents' Conduct

4. In the period between January 2007 and April 2008, Ianno purchased a large number of shares of Covalon. He purchased a significant proportion of these shares on margin (meaning that they were purchased on credit advanced by a brokerage and secured against the value of the shares).

5. In the period between November 2007 and April 2008, Ianno manipulated the market for Covalon shares by raising or artificially maintaining their price. He frequently purchased Covalon shares through multiple brokerage accounts at or near the end of the trading day.

6. In the same period, as part of his undertaking to raise or maintain the price of Covalon shares, Ianno encouraged Manzo and eight other associates to purchase shares of Covalon. Ianno directed Manzo to make purchases at or near the end of the trading day. Finally, Ianno engaged in unauthorized trading in the accounts of four of his associates.

7. Ianno undertook to raise or maintain the price of Covalon shares in this period in order to assist with his margin issues. These issues included the need to improve his margin position, the need to avoid margin calls, and the need to negotiate margin rates (meaning the proportion of the shares' purchase price to be provided by Ianno) to fund further purchases of Covalon shares.

Overview of the Respondents' Trading

(a) Ianno

8. Between January 2007 and April 2008, Ianno purchased approximately 4,000,000 common shares of Covalon. The purchases were made in 11 different accounts held at 8 different brokerage firms. Some of the accounts were held in Ianno's name, and some were in the name of Roof-Can Corporation, a company owned in part by Ianno. These purchases totalled approximately $7,642,000 at the time of acquisition.

9. The majority of Ianno's Covalon share purchases were made on margin. Of the approximately 4,000,000 shares purchased in this period, approximately 2,776,800 were subject to margin requirements.

10. A portion of these shares was held in brokerage accounts where the shares were subject to a $3.00 per share minimum price for margin eligibility. The remaining portion was held in accounts where the shares were subject to a $2.00 per share minimum price for margin eligibility.

11. Each lending brokerage sets its own margin rules (subject to certain regulatory requirements), including minimum share prices and other loan security requirements. Brokerages generally assess the value of a share position for margin purposes based on the share's closing bid price (meaning the final bid price for those shares at the close of the trading day).

12. In the period between January 2007 and April 2008, Ianno received approximately 27 margin calls from 8 different brokerages relating to his Covalon shares, meaning that a lending brokerage notified him that his Covalon shares did not have sufficient value to secure the loans that had been made to purchase them.

(b) Manzo

13. Between January 2007 and April 2008, Manzo purchased approximately 935,000 shares of Covalon. The purchases were made in 10 different accounts held at 5 different brokerage firms. Some of the accounts were held in Manzo's name, and some were in the name of Financial Concepts, a sole proprietorship owned by Manzo. These purchases totalled approximately $2,850,000 at the time of acquisition.

14. The majority of Manzo's Covalon share purchases were made on margin. Of the 935,000 shares purchased in this period, approximately 595,000 were purchased on margin. A portion of these shares were held in brokerage accounts where the shares were subject to a $3.00 per share minimum price for margin eligibility. The remaining portion were held in accounts where the shares were subject to a $2.00 per share minimum price for margin eligibility. Manzo did not receive any margin calls during this period.

Ianno's Attempts to Set an Artificial Price

15. In the period between November 2007 and April 2008, Ianno engaged in trading in which he intended to or did raise or maintain the price of Covalon shares. The majority of Ianno's purchases of Covalon shares during this period were active trades (meaning that they were priced for an immediate fill from available shares on offer).

16. A significant portion of these active trades caused an uptick (meaning an increase over the previous price) in the price of Covalon shares. In addition, a significant proportion of these active trades caused an increase in the prevailing market for Covalon shares (meaning an increase in the bid price and/or the ask price).

17. A significant portion of these active trades also occurred within 15 minutes of the close of the trading day. A portion of these trades constituted the closing trade of the day in Covalon shares.

18. Ianno undertook to raise or maintain the price of Covalon shares during this period in order to assist with his margin issues. These issues included the need to improve his margin position, the need to avoid margin calls, and the need to negotiate margin rates to fund further purchases of Covalon shares.

19. In conducting this trading, Ianno frequently undertook to raise the price of Covalon shares to or above a $3.00 per share level in order to respond to the margin loan requirements imposed by several of the brokerages through whom he had purchased his Covalon shares.

20. Prior to and during this period, Ianno was warned by brokerage representatives that his late-day trading was inappropriate, however he continued to engage in such trading.

Ianno's Unauthorized Trading

21. Ianno encouraged eight individuals to open trading accounts at BMO InvestorLine and purchase Covalon shares in those accounts. The eight individuals were: RF, FS, AP, FM, MG, ND, DP and JM (together, the "Ianno Associates").

22. Between December 2007 and February 2008, the Ianno Associates all opened accounts with BMO InvestorLine and purchased Covalon shares in those accounts.

23. In January and February of 2008, Ianno instructed Anthony D'Ugo ("D'Ugo"), a salesperson with BMO InvestorLine, to execute purchases of Covalon shares in the accounts of four of the Ianno Associates: MG, ND, DP and JM. Ianno did not have written trading authorization over these accounts.

24. The volume of the purchases totalled approximately 640,000 Covalon shares at a total acquisition cost to the account holders of approximately $1,900,000. A significant portion of these trades were active and occurred within the last 30 minutes of trading.

25. On January 25, 2008 Ianno instructed D'Ugo to enter a buy order for Covalon shares in MG's account within the last 5 minutes of trading. This bid improved the price of the prevailing best bid for Covalon shares.

26. On February 1, 2008, Ianno instructed D'Ugo to enter a buy order for Covalon shares in DP's account within the last 10 minutes of trading. This bid improved the price of the prevailing best bid for Covalon shares. Ianno also instructed D'Ugo to enter a buy order for Covalon shares in DP's account on February 5, 2008 within the last 5 minutes of trading which joined the prevailing best bid for Covalon shares, adding to the bid size.

27. Ianno communicated to D'Ugo that after the unauthorized trades outlined above were executed, he was willing to make further purchases himself if they were needed to achieve a specified price level for Covalon shares. Specifically, Ianno instructed D'Ugo that he should make purchases in Ianno's account at a price of $3.00 if needed to "protect the $3.00".

Manzo's Attempts to Set an Artificial Price

28. In the period between November 2007 and April 2008, Manzo engaged in trading in which he intended to or did raise or maintain the price of Covalon shares. This trading was frequently done either in conjunction with or at the direction of Ianno.

29. During this period, the majority of Manzo's purchases of Covalon shares were active trades. A significant portion of these active trades caused an uptick in the price of Covalon shares. A significant portion of these active trades also occurred within 15 minutes of the close of the trading day.

30. Of these late-day trades, the majority occurred after 15:59:00 (daily trading on the TSXV closes at 16:00 Toronto time) and a significant proportion constituted the closing trade of the day in Covalon shares. Manzo frequently made late day trades of only 100 Covalon shares, which is the minimum Standard Trading Unit (meaning the minimum quantity of shares that can be included in the stock exchange's price data) for purchases on the TSXV. Given Manzo's significant holdings of Covalon shares, there was no economic reason to purchase further shares in such small quantities. These closing trades frequently had the effect of setting the closing price in Covalon shares, often on an uptick.

31. In addition, Manzo frequently entered improving bids (meaning bids which increased the price of the prevailing bid) at or near the close of trading. These improving bids were nearly all for volumes of only 100 shares, which is the minimum Standard Trading Unit for bids on the TSXV. Once again, given his significant holdings of Covalon shares, there was no economic reason to bid for further shares in such small quantities. Manzo generally entered these improving bids into the marketplace anonymously.

Ianno and Manzo's Coordinated Trading

32. In the period between November 2007 and April 2008, there were several days in which Ianno and Manzo coordinated their purchases in order to raise or maintain the price of Covalon shares.

33. Ianno and Manzo were in frequent contact throughout this period, making nearly 300 calls between their cellular telephones.

34. On these dates, Ianno executed late-day purchases of Covalon shares either in his own account or in those of the Ianno Associates, as outlined above. These trades generally had the effect of taking out the prevailing offer side of the market (known as the "best ask"), thereby increasing the market level and/or the trading price of Covalon shares.

35. Manzo would then enter an improving bid for Covalon shares at the end of the trading day. These bids were generally for only 100 shares, the minimum Standard Trading Unit for a bid on the TSXV. Manzo would also frequently execute the closing trade in Covalon shares, also on a volume of only 100 shares.

Summary

36. As a result of the conduct outlined above, Ianno and Manzo directly or indirectly engaged or participated in an act, practice or course of conduct relating to securities that they knew or ought reasonably to have known would result in or contribute to a misleading appearance of trading activity in or an artificial price for a security contrary to section 126.1 of the Securities Act.

37. Further, the conduct outlined above was abusive of the capital markets.

CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

38. Staff allege that the conduct set out above of Ianno and Manzo violated Ontario securities law as specified and constituted conduct contrary to the public interest.

39. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto this 8th day of March, 2010.

1.4 Notices from the Office of the Secretary

1.4.1 York Rio Resources Inc. et al.

FOR IMMEDIATE RELEASE
March 4, 2010

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

AND

IN THE MATTER OF
YORK RIO RESOURCES INC.,
BRILLIANTE BRASILCAN RESOURCES CORP.,
VICTOR YORK, ROBERT RUNIC,
GEORGE SCHWARTZ, PETER ROBINSON,
ADAM SHERMAN, RYAN DEMCHUK,
MATTHEW OLIVER, GORDON VALDE AND
SCOTT BASSINGDALE

TORONTO – The Office of the Secretary issued a Notice of Hearing on March 2, 2010 setting the matter down to be heard on March 3, 2010, at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated March 2, 2010 and Statement of Allegations of Staff of the Ontario Securities Commission dated March 2, 2010 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1-877-785-1555 (Toll Free)

1.4.2 Brilliante Brasilcan Resources Corp. et al.

FOR IMMEDIATE RELEASE
March 4, 2010

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

AND

IN THE MATTER
BRILLIANTE BRASILCAN RESOURCES CORP.,
YORK RIO RESOURCES INC.,
BRIAN W. AIDELMAN, JASON GEORGIADIS,
RICHARD TAYLOR AND VICTOR YORK

TORONTO – The Commission issued an Order in the above named matter which provides that (1) pursuant to subsection 127(8) of the Act that the hearing is adjourned to April 12, 2010 at 9:00 a.m.; and (2) pursuant to subsection 127(8) of the Act that the Amended Temporary Order is extended until close of business on April 13, 2010, subject to further extension by order of the Commission.

A copy of the Order dated March 3, 2010 is available at **www.osc.gov.on.ca**.

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1.4.3 York Rio Resources Inc. et al.

FOR IMMEDIATE RELEASE
March 4, 2010

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

AND

IN THE MATTER OF
YORK RIO RESOURCES INC.,
BRILLIANTE BRASILCAN RESOURCES CORP.,
VICTOR YORK, ROBERT RUNIC,
GEORGE SCHWARTZ, PETER ROBINSON,
ADAM SHERMAN, RYAN DEMCHUK,
MATTHEW OLIVER, GORDON VALDE AND
SCOTT BASSINGDALE

TORONTO – The Commission issued an Order in the above named matter which provides that the hearing is adjourned to April 12, 2010 at 9:00 a.m. or such other date as is agreed by the parties and determined by the Office of the Secretary.

A copy of the Order dated March 3, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.4 Peter Robinson and Platinum International Investments Inc.

FOR IMMEDIATE RELEASE
March 8, 2010

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

AND

IN THE MATTER OF
PETER ROBINSON AND
PLATINUM INTERNATIONAL INVESTMENTS INC.

TORONTO – The Commission issued an Order in the above named matter which provides that (1) pursuant to subsection 127(8) of the Act, the Temporary Cease Trade Order is extended until April 13, 2010; and (2) the hearing with respect to this matter is adjourned to April 12, 2010, at 9:15 a.m.

A copy of the Order dated March 8, 2010 is available at **www.osc.gov.on.ca**.

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1.4.5 Sulja Bros. Building Supplies, Ltd. et al.

FOR IMMEDIATE RELEASE
March 8, 2010

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL MANAGEMENT INC., ANDREW DE VRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA

TORONTO – The Commission issued an Order which provides that (1) this matter will proceed to a hearing on the merits on the following dates in 2010: September 13; the afternoon of September 14; September 15-17; September 20-24; October 4-8; October 13-15; October 18 and 19; and (2) the matter will return for a further pre-hearing conference to be held on May 7, 2010, at 10:00 a.m. to address any remaining pre-hearing issues.

A copy of the Order dated March 4, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1-877-785-1555 (Toll Free)

1.4.6 Innovative Gifting Inc. et al.

FOR IMMEDIATE RELEASE
March 8, 2010

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

AND

IN THE MATTER OF
INNOVATIVE GIFTING INC.,
TERENCE LUSHINGTON, Z2A CORP., AND CHRISTINE HEWITT

TORONTO – The Commission issued an Order in the above named matter which provides that (1) pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against IGI until April 13, 2010; and (2) the hearing with respect to the Notice of Hearing dated March 2, 2010 and with respect to the Temporary Order is adjourned to April 12, 2010, at 9:45 a.m.

A copy of the Order dated March 8, 2010, Notice of Hearing dated March 2, 2010 and Statement of Allegations of Staff of the Ontario Securities Commission dated March 2, 2010 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.7 Uranium308 Resources Inc. et al.

FOR IMMEDIATE RELEASE
March 8, 2010

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

AND

IN THE MATTER OF
URANIUM308 RESOURCES INC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, AND SHAFI KHAN

TORONTO – The Commission issued an Order in the above named matter which provides that (1) pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc. until April 13, 2010; and (2) the hearing with respect to the Notice of Hearing dated March 2, 2010 and with respect to the Temporary Order is adjourned to April 12, 2010, at 9:30 a.m.

A copy of the Order dated March 8, 2010, Notice of Hearing dated March 2, 2010 and Statement of Allegations of Staff of the Ontario Securities Commission dated March 2, 2010 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.8 Norshield Asset Management (Canada) Ltd. et al.

FOR IMMEDIATE RELEASE
March 8, 2010

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

AND

IN THE MATTER OF
NORSHIELD ASSET MANAGEMENT
(CANADA) LTD.,OLYMPUS UNITED GROUP INC.,
JOHN XANTHOUDAKIS,
DALE SMITH AND PETER KEFALAS

TORONTO – Following the hearing on the merits in the above noted matter, the Panel released its Reasons and Decision today.

A copy of the Reasons and Decision dated March 8, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.9 Anthony Ianno and Saverio Manzo

FOR IMMEDIATE RELEASE
March 9, 2010

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

AND

IN THE MATTER OF
ANTHONY IANNO AND SAVERIO MANZO

TORONTO – The Office of the Secretary issued a Notice of Hearing setting the matter down to be heard on March 30, 2010, at 2:30 p.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated March 8, 2010 and Statement of Allegations of Staff of the Ontario Securities Commission dated March 8, 2010 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.10 Notice and Request for Comments Regarding Proposed Amendments to Rule 12 of the Rules of Procedure of the Ontario Securities Commission

FOR IMMEDIATE RELEASE
March 12, 2010

NOTICE AND REQUEST FOR COMMENTS
REGARDING PROPOSED AMENDMENTS TO
RULE 12 OF THE RULES OF PROCEDURE OF
THE ONTARIO SECURITIES COMMISSION

Introduction

The Ontario Securities Commission (Commission) is seeking comments on a proposed new rule to replace existing Rule 12 of the Commission's *Rules of Procedure* (2009) 32 OSCB 1991 (Rules) which applies to procedures for hearings to approve settlement agreements between staff of the Commission's Enforcement Branch ("Staff") and respondents.

The Rules apply to all proceedings before the Commission where the Commission is required under the *Securities Act*, R.S.O. 1990, c. S.5 and the *Commodity Futures Act*, R.S.O. 1990, c. C.20 or otherwise by law to hold a hearing or to afford to the parties to the proceeding an opportunity for a hearing before making a decision.

Proposed new Rule 12 (attached to this Notice as Annex "A") is being published for a sixty (60) day comment period. If the proposed Rule is adopted by the Commission with or without changes, existing Rule 12 will be repealed and replaced by the new Rule which will apply immediately to all proceedings before the Commission, including proceedings commenced by a Notice of Hearing issued prior to the adoption of the new Rule.

The new Rule will be implemented pursuant to section 25.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (SPPA).

Background

The proposed new Rule is designed to ensure the fair and efficient resolution of proceedings before the Commission to approve settlement agreements between Staff and respondents in the most expeditious and cost-effective manner, consistent with the Commission's objective to make its adjudicative processes transparent and accessible.

During the comment process on the Rules in 2008-09, a number of comments were received on the Commission's procedures for approving settlement agreements which suggested that the Commission consider reviewing its procedures for approving settlement agreements. Although there was a broad consensus among the commentators that those procedures should be revised, there was no specific consensus at that time on what those revisions should be. Therefore, when the Commission adopted the Rules in April 2009, it decided that it would not amend the existing procedures for approving settlement agreements, but undertook to review those procedures during 2009-10.

The Commission began the review of its settlement approval process in September 2009 by inviting members of the respondents' bar and Staff to participate in an informal round-table discussion on the process. At the round-table discussion, there was a consensus among participants that the Commission's current settlement approval process might not encourage settlements but might, in some circumstances, discourage parties from entering into settlement discussions. In particular, participants were of the view that the current settlement approval process is perceived as resulting in too great a level of uncertainly of outcome. Participants expressed the view that many respondents were reluctant to engage in settlement negotiations with Staff only to have the ultimate settlement agreement rejected by a Commission panel at a public hearing. Even though the details of a rejected settlement remain confidential, participants were of the view that the public nature of the rejection was itself prejudicial to all parties, particularly to respondents.

Participants proposed that any changes to the existing procedures should, among other things:

- enhance the efficiency of the Commission's settlement process, reduce costs, encourage settlements and decrease the number of lengthy merits hearings;
- provide a degree of flexibility and avoid high costs and time delays;
- balance the requirement for open, transparent proceedings and the parties' desire for greater certainty of outcome; and

- support the settlement negotiation process by recognizing that joint submissions on facts and sanctions are arrived at through active negotiation between the parties and that settlement agreements should normally be approved where they are reasonable in the circumstances.

Following consideration by the Commission's Adjudicative Committee of the comments made at the round-table, on the recommendations of that committee, the Commission approved the publication for comment of proposed new Rule 12.

Proposed new Rule 12

Under the new Rule, settlement agreements between Staff and respondents will still be required to be approved by the Commission through a hearing for which a public notice will be issued. However, the new Rule provides for a settlement conference before a panel of one or more Commissioners ("Panel") to be held prior to proceeding to a public hearing to approve the settlement.

A settlement conference will be held only if both Staff and the respondent jointly request the conference. There must be at least one settlement conference before a settlement agreement can proceed to a hearing before a Panel for approval. A settlement conference would likely be held at the stage where the parties have reached a settlement (which might be evidenced by a draft settlement agreement or a joint memorandum of settlement) that they propose to present to a Panel for approval at a public hearing. At the settlement conference, the Panel will indicate whether or not it would be prepared to approve the settlement agreement if it were submitted to it for approval at a public hearing.

If, during the settlement conference, the Panel concludes that it would be unlikely to approve the settlement agreement, it will discuss the grounds for its conclusions with the parties. It is, however, not intended that the Panel conduct any "mediation" or similar function, merely that it will identify for the parties any matter that, in the view of the Panel, would likely lead it to refuse to approve the settlement in the public interest if presented at a hearing.

If the Panel presiding at the settlement conference indicates that it would likely reject the proposed settlement agreement, the parties may consider the Panel's grounds for rejection and continue to negotiate another settlement that the parties believe would be more likely to be approved by the Commission, or they may abandon the settlement process and proceed in the normal course.

If the parties jointly request, a settlement conference *may* be held at an earlier stage before they have reached full agreement. If the parties have reached agreement on most substantive matters but have outstanding issues on which they wish to seek the Commission's views, they may jointly request a settlement conference. Although the Panel will participate in discussions on the outstanding issues identified by the parties, the Panel will generally limit its role to expressing views that might be of assistance to the parties in reaching a settlement. The Panel will not conduct a mediation or similar function.

Settlement conferences will be held *in camera* without public notice and all settlement discussions will be without prejudice. No record of the settlement conference will be made unless the parties request otherwise.

Once a Panel presiding at a settlement conference has indicated that it would be prepared to approve the settlement agreement if it were presented to the Panel at a public hearing, the parties may file a joint application for a hearing to consider the settlement agreement for final approval. A public Notice of Hearing to consider the application to approve the settlement agreement will be issued accompanied by a copy of the final signed settlement agreement. The Panel presiding at the hearing to approve the settlement agreement will consist of one or more of the members of the Panel who presided at the settlement conference. At the public hearing to approve the settlement agreement, it is anticipated that the parties will make submissions to support a finding that the settlement agreement is in the public interest. If the settlement agreement presented at the hearing is the same as the draft settlement agreement or is on terms substantially the same as the joint settlement memorandum presented at the settlement conference, it will in the normal course be approved by the Panel. The Panel's approval may be given by endorsement on the record and the issuance of an order. However, if the Panel determines that it is appropriate in the circumstances to issue oral and/or written reasons, it may do so. The approved settlement agreement, the Panel's order and reasons, if any, will be posted on the Commission's website and published in the *Bulletin*.

Comment Process

Comments must be submitted in writing by Monday, May 10, 2010 either by mail, facsimile or e-mail to:

John P. Stevenson
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario, M5H 3S8
Fax: 416-593-2318
Email: jstevenson@osc.gov.on.ca

ANNEX A

Proposed Amended Rule 12 of the Commission's *Rules of Procedure* (2009) 32 OSCB 1991

Rule 12 – Settlement Agreements

12.1 Purpose of Settlement Conference

(1) The purpose of a settlement conference is to provide the parties with the opportunity, prior to proceeding to a hearing under this Rule to approve a settlement agreement, to make confidential submissions on a proposed settlement to a Panel in order to obtain guidance on whether the terms of the proposed settlement would, in the view of the Panel, be in the public interest.

(2) At least one settlement conference shall be held before a hearing to approve the settlement agreement.

12.2 Application for a Settlement Conference

(1) An application for a settlement conference shall be filed jointly by the parties to the proposed settlement no later than 5 days before the settlement conference.

(2) The application shall be accompanied by:

(a) the consent in writing of the parties to participate in the settlement conference;

(b) an agreement concerning the confidentiality of the settlement discussions and any document or thing presented at the settlement conference; and

(c) a draft of the proposed settlement agreement or a joint memorandum setting out the terms of the proposed settlement between the parties.

12.3 Notice of Settlement Conference

(1) The Secretary shall issue a Notice of Settlement Conference for an application referred to in subrule 12.2(1) only after all the documents required to be filed pursuant to subrule 12.2(2) have been filed.

(2) The Notice of Settlement Conference shall be issued only to the parties to the settlement conference and shall not be published or otherwise made available to the public.

12.4 Oral or Electronic

A settlement conference may be held in person or by way of electronic hearing, as the Panel may direct.

12.5 In Camera Proceeding

(1) The settlement conference shall be held *in camera* and no transcript or other record of the proceeding shall be made unless the parties to the settlement request otherwise, except that the Panel may make such record of the conference as it deems necessary for its own record and use.

(2) Rule 5.1 shall not apply to any document or thing filed under Rule 12.1 or presented at a settlement conference or any record made by the Panel pursuant to subrule 12.5(1), and any such document or thing shall be kept confidential pursuant to Rule 9 of the SPPA and shall not be made available to the public.

12.6 No Communication to Panel Hearing the Merits

In the event that the matter subject to the settlement conference proceeds to a hearing on the merits, the Panel presiding at the settlement conference shall not participate in the hearing on the merits and no communication made at the settlement conference shall be disclosed to the Panel hearing the matter on the merits.

12.7 Application for a Hearing to Approve the Settlement

(1) An application for a hearing to approve a settlement shall be filed jointly by the parties to the settlement no later than 2 days before the hearing.

(2) The application shall be accompanied by:

(a) a draft order;

(b) the respondent's consent to the order; and

(c) the settlement agreement signed by the settling parties.

12.8 Notice of Settlement Hearing

The Secretary shall issue a Notice of Hearing for an application referred to in subrule 12.7(1) only after all the documents required to be filed pursuant to subrule 12.7(2) have been filed.

12.9 Settlement Hearing Panel

The Panel presiding at the hearing to approve the settlement shall be one or more of the members of the Panel that presided at the settlement conference.

12.10 Public Settlement Hearing

(1) A hearing to approve an application under subrule 12.7(1) shall be open to the public.

(2) The Panel may issue oral or written reasons if it deems it appropriate to do so.

12.11 Publication of Settlement Agreement When Approved

The order approving the settlement agreement, the settlement agreement, and the Panel's reasons, if any, shall be posted on the Commission's website and in the *Bulletin* forthwith following approval of the settlement agreement by the Panel, unless otherwise ordered by the Panel.

1.4.11 Global Energy Group, Ltd. and New Gold Limited Partnerships

FOR IMMEDIATE RELEASE
March 10, 2010

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

AND

IN THE MATTER OF
GLOBAL ENERGY GROUP, LTD. AND
NEW GOLD LIMITED PARTNERSHIPS

TORONTO – Following a hearing held today, the Commission issued an Order in the above named matter which provides that, pursuant to subsection 127(8) of the Act, the Temporary Order is extended to July 12, 2010 and the hearing in this matter is adjourned to July 9, 2010, at 11:30 a.m. or on such other date as provided by the Secretary's office and agreed to by the parties.

A copy of the Order dated March 10, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Meritas Financial Inc. et al.

Headnote

National Policy11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of mutual funds – proximity of the acquisition of the manager and subsequent amalgamation of the manager with two other wholly-owned subsidiaries considered a change of manager – exemption granted from the requirement to obtain prior securityholder approval for change of manager on specific facts – no material impact to securityholders of mutual funds – Relief from securityholder approval not to be considered a precedent.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.1(b), 5.5(1)(a), 5.7, 19.1.

March 4, 2010

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
MERITAS FINANCIAL INC.
(the "Manager" or the "Filer")

AND

MERITAS MONEY MARKET FUND, MERITAS CANADIAN BOND FUND, MERITAS BALANCED PORTFOLIO FUND, MERITAS MONTHLY DIVIDEND AND INCOME FUND, MERITAS JANTZI SOCIAL INDEX® FUND, MERITAS U.S. EQUITY FUND AND MERITAS INTERNATIONAL EQUITY FUND
(collectively, the "Meritas Funds")

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 from the requirement in subsection 5.1(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") such that no approval of the securityholders of the Meritas Funds will be required with respect to the change in manager of the Meritas Funds, and for approval pursuant to subsection 5.5(1)(a) of NI 81-102, of the change in manager of the Meritas Funds (the "**Relief & Approval Sought**").

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

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

(b) the 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 provinces and territories of Canada other than Ontario.

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:

Proposed Acquisition and Amalgamation

1. The Manager, the shareholders of the Manager (Mennonite Savings and Credit Union (Ontario) Limited ("**MSCU**"), MMA Holdings, Inc. and Mennonite Foundation of Canada ("**MFC**")) and Qtrade Canada Inc. ("**Qtrade**") have entered into an agreement dated December 2, 2009 pursuant to which Qtrade will purchase all of the issued and outstanding shares of the Manager in exchange for common shares of Qtrade and a specified amount of cash (the "**Acquisition**"). The completion of the Acquisition is subject to receipt of all required regulatory approvals and other customary closing conditions and is scheduled to occur on or about March 31, 2010.

2. Upon completion of the Acquisition, the Manager will be a wholly-owned subsidiary of Qtrade. The Manager subsequently will be amalgamated with two other wholly-owned subsidiaries of Qtrade, Qtrade Fund Management Inc. ("**QFM**") and OceanRock Capital Partners Inc. ("**OceanRock**"), and will continue as a combined entity under the

name Qtrade Fund Management Inc. (the Acquisition and subsequent amalgamation collectively being the "**Transaction**"). The amalgamated entity will be part of the Qtrade Financial Group which will have over $4 billion in assets under administration and $350 million in assets under management.

3. The Manager acknowledges that, due to the proximity of the amalgamation to the Acquisition, the principal regulator views the Transaction as resulting in a change of manager, rather than a change in control of the Manager.

4. As required by section 11.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure*, a press release disclosing the Transaction has been issued and posted on the website of the Manager and the press release, a Form 51-102F3 *Material Change Report* describing the Transaction and amendments to the Meritas Funds' simplified prospectus and annual information form disclosing the Transaction have all been filed on SEDAR.

5. As required by section 11.10 of National Instrument 31-103 *Registration Requirements and Exemptions*, the Manager has given the regulator written notice of the Transaction.

6. It is contemplated that the amalgamated entity will be registered in the provinces of Alberta, British Columbia and Ontario as an exempt market dealer, and in the provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan as an adviser.

7. There will be continuity in the directors and officers of Qtrade Fund Management Inc. following the amalgamation as it is anticipated that they will all be existing directors or officers of MSCU, the Manager, QFM or OceanRock.

8. The directors and officers of Qtrade following the Transaction will have the requisite integrity and experience required under subsection 5.7(1)(a)(v) of NI 81-102.

The Manager and the Meritas Funds

9. The Manager is incorporated pursuant to the *Canada Business Corporations Act* with its head office located in Kitchener, Ontario and is responsible for all of the day-to-day management and administration for each of the Meritas Funds as their manager, portfolio adviser and trustee. The Manager is registered in the province of Ontario as an adviser and an exempt market dealer.

10. The Meritas Funds are qualified for continuous distribution in each province and territory of Canada. Neither the Manager nor any of the Meritas Funds is in default of the securities laws of any province or territory of Canada.

11. The Manager estimates that greater than two-thirds of the securityholders of the Meritas Funds are also members or beneficial owners of MSCU or MFC, which are both shareholders of the Manager.

Qtrade Financial Group

12. Qtrade is incorporated pursuant to the *Canada Business Corporations Act* with its head office located in Vancouver, British Columbia. Qtrade carries on business as Qtrade Financial Group providing wealth management services and solutions to the retail public as well as the customers of financial institutions across Canada through five wholly-owned subsidiaries, QFM, Qtrade Asset Management Inc. ("**QAM**"), Qtrade Securities Inc. ("**QSI**"), Qtrade Insurance Solutions Inc. and OceanRock. Upon the completion of the Acquisition, MSCU, the current majority shareholder of Meritas, will own greater than 10% of the issued and outstanding shares of Qtrade. MSCU is wholly-owned by its nearly 17,000 members, none of which have an ownership stake in MSCU greater than 10%.

13. QFM is incorporated pursuant to the Canada Business Corporations Act with its head office located in Vancouver, British Columbia. QFM is the manager and trustee of the QFM Fixed Income Fund, QFM Global Equity Fund, QFM Global Sector Target Fund, QFM Structured Yield Fund, QFM Money Market Fund and QFM World Balanced Fund (collectively, the "**QFM Funds**").

14. OceanRock is incorporated pursuant to the Canada Business Corporations Act with its head office located in Vancouver, British Columbia. OceanRock is the portfolio manager of the QFM Funds and provides portfolio management and individual discretionary investment management services to institutions and high net worth clients. OceanRock is registered in the provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan as an adviser.

15. Each of Qtrade, QFM and OceanRock is not in default of the securities laws of any province or territory of Canada.

Submissions

16. The Transaction will not materially affect the management or administration of the Meritas Funds. The Manager will continue to operate within the amalgamated entity substantially as it currently operates with the same management, employees and offices and there are no foreseeable changes to the senior management, middle management or other employees of the

Manager with respect to the management and administration of the Meritas Funds. This also applies to the Manager's role as portfolio adviser of the Meritas Funds, and currently no decisions have been made to make changes to any of the sub-advisors to the Meritas Funds, so the investment advice will continue to be given by the same individuals as prior to the Transaction.

17. The Meritas Funds will continue to be managed and administered as a separate division within the Qtrade Financial Group. The business, operations and administration of the Meritas Funds will remain in the Manager's current office in Kitchener, Ontario while the business, operations and administration of the QFM Funds will continue to be conducted from Qtrade's current office in Vancouver, British Columbia.

18. There is currently no intention to merge the QFM Fund family with the Meritas Fund family. The Meritas Funds are expected to continue to focus exclusively on socially responsible investing with no expected changes to their investment objectives and strategies.

19. Exemption from the requirement for securityholder approval of the Transaction is being sought because:

    (a) while the Transaction may be viewed as a change of manager, the Meritas Funds will continue to be managed and administered as its own separate division within the Qtrade Financial Group; and

    (b) the majority of securityholders of the Meritas Funds are also members or beneficial owners of the shareholders of the Manager, which shareholders have already approved the Transaction.

20. The Manager has referred the proposed Transaction to the Independent Review Committee ("**IRC**") of the Meritas Funds for its review, and the IRC has provided its positive recommendation that, after reasonable inquiry, it is its opinion that the Transaction achieves a fair and reasonable result for the Meritas Funds.

21. Qtrade and the Manager do not foresee that the Transaction will give rise to any conflicts of interest of a type different from those which are currently managed by the firms comprising the Qtrade Financial Group.

22. The firms comprising the Qtrade Financial Group will follow standard policies and procedures for addressing conflicts of interest. For example, QSI (a registered investment dealer), QAM (a registered mutual fund dealer) and the amalgamated entity (which will be registered under securities legislation), will provide disclosure to all clients that the Meritas Funds and the QFM Funds are related and/or connected issuers of QSI, QAM and the amalgamated entity. They will also continue to have policies and procedures for addressing conflicts of interest, which will be centred on disclosing conflicts to clients and resolving them in clients' best interests. These policies will also address matters such as frontrunning and the fair allocation of investment opportunities among clients of the various entities.

23. Upon the completion of the proposed Transaction, all current members of the IRC for the Meritas Funds will cease to be members of the IRC pursuant to subsection 3.10(1)(c) of National Instrument 81-107 *Independent Review Committee for Investment Funds* ("**NI 81-107**"). In accordance with subsection 3.3(5) of NI 81-107, the amalgamated QFM will fill the vacancies by appointing new members of the IRC.

24. Notice of the Transaction was mailed to the securityholders of the Meritas Funds in January 2010, at least 60 days in advance of the completion of the Transaction.

Decision

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

The decision of the principal regulator under the Legislation is that the Relief & Approval Sought is granted.

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

2.1.2 Nexstar Energy Ltd. – 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).

March 4, 2010

Heenan Blaikie LLP
12th floor, Fifth Avenue Place
425 - 1 Street SW
Calgary, AB T2P 3L8

Attention: Lesley Kim

Dear Madam:

Re: Nexstar Energy Ltd. (the Applicant) – Application for a decision under the securities legislation of 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 to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As 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 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

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

"Blaine Young"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.3 National Bank Securities Inc.

Headnote

National Policy 11-203 Process for Exemption Relief Applications in Multiple Jurisdiction – relief granted from investment prohibition in subsection 4.1(1) of NI 81-102 to permit purchases of securities under private placement where the issuer is a reporting issuer – relief conditional on the Fund complying with subsection 4.1(4)(a), 4.1(4)(c)(ii), 4.1(4)(d) of NI 81-102 which include approval by the mutual funds' independent review committee and that each investment be in compliance with the investment objectives of the Fund.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 19.1.
National Instrument 81-107 Independent Review Committees for Investment Fund, s. 5.2.

March 1, 2010

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

AND

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

AND

IN THE MATTER OF
NATIONAL BANK SECURITIES INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer on behalf of the existing mutual funds subject to National Instrument 81-102 *Mutual Funds* (**NI 81-102**) for which the Filer currently acts as manager and any other mutual funds subject to NI 81-102 which may be created in the future for which the Filer or an affiliate may act as manager or portfolio advisor or both (each, a **Fund** and collectively, the **Funds**) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from subsection 4.1(1) of NI 81-102 to enable the Funds to purchase equity securities (**Securities**) of a reporting issuer during the period of distribution (the **Distributio**n) of the Securities pursuant to a private placement offering (a **Private Placement**) and for the 60-day period (the **60-day Period**) following completion of the Distribution (the Distribution and the 60-day period together, the **Prohibition Period**), notwithstanding that the dealer manager of the Funds or an associate or affiliate thereof acts or has acted as underwriter in connection with the Distribution (each a **Relevant Offering** and the above is collectively, the **Exemption Sought**).

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

(a) the Autorité des marchés financiers 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 British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon; and

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

Interpretation

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

IRC means Independent Review Committee.

NI 81-107 means National Instrument 81-107 *Independent Review Committee for Investment Funds*.

Related Underwriters means National Bank Financial Inc. and National Bank Financial Ltd.

Representations

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

1. The Filer is a corporation amalgamated under the laws of Canada with its head office located in Montreal, Quebec.

2. Natcan Investment Management Inc. (**NIMI**) is a corporation incorporated under the laws of Quebec and is registered as a portfolio manager in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Newfoundland and Labrador and Northwest Territories. NIMI is an affiliate of the Filer and is the portfolio manager of certain of the Funds.

3. Each of the Funds is or will be an open-ended mutual fund trust or corporation established under the laws of Canada or a jurisdiction of Canada.

4. The securities of the Funds, other than National Bank Protected Canadian Bond Fund, National Bank Protected Retirement Balanced Fund, National Bank Protected Growth Balanced Fund, National Bank Protected Canadian Equity Fund and National Bank Protected Global Fund (collectively, the **Protected Funds**), are or will be qualified for distribution in each of the provinces and territories of Canada pursuant to simplified prospectuses and annual information forms that have been prepared and filed in accordance with applicable securities legislation. The Protected Funds are reporting issuers that are required to file an annual information form pursuant to Section 9.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure*.

5. The Filer, or an affiliate or associate of the Filer, is or will be the manager and/or the portfolio adviser of the Funds. In addition, from time to time, third parties who are registered as portfolio managers may act as portfolio advisers to the Funds. Each Fund is or will be a “dealer managed mutual fund”, as such term is defined in NI 81-102.

6. The Filer and the Funds are not in default of securities legislation in any jurisdiction of Canada.

7. The Filer has established an IRC in respect of the Funds in accordance with NI 81-107.

8. The Related Underwriters may be a party to an underwriting agreement with a reporting issuer in respect of Securities that are offered on a Private Placement basis. The Filer may wish to cause its relevant Funds to invest in such Securities during the Prohibition Period.

9. At the time of purchase by a Fund, the Securities will either be (i) equity securities of a reporting issuer or (ii) convertible securities, such as special warrants, which automatically permit the holder to purchase, convert or exchange such convertible securities into other equity securities of this issuer once such other equity securities are listed and traded on an exchange.

10. Despite the affiliation between the Filer and the Related Underwriters, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriters and the investment portfolio management activities of the portfolio adviser on behalf of the Funds are separated by “ethical” walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:

    (a) in respect of compliance matters (for example, the Filer and the Related Underwriters may communicate to enable the Filer to maintain an up to date restricted-issuer list to ensure that the Filer complies with applicable securities laws); and

    (b) the Filer and the Related Underwriters may share general market information such as discussion on general economic conditions, bank rates, etc.

11. The Funds will not be required or obligated to purchase any Securities during the Prohibition Period.

12. Any purchase of Securities by the Funds will be consistent with the investment objectives of the Funds and represent the business judgment of the Filer uninfluenced by considerations other than the best interests of the Funds.

13. To the extent that a Related Underwriter participates as an underwriter in an offering, the investment prohibition contained in subsection 4.1(1) of NI 81-102 (the Prohibition) restricts the Funds from making certain investments in the issuer's Securities during the relevant Prohibition Period, which can result in the portfolio adviser of the Fund incurring extra costs, which are ultimately borne by the relevant Fund, to substitute investments for those that it is prohibited from purchasing.

14. Subsection 4.1(1) of NI 81-102 provides an exemption from the Prohibition if the Filer or any of its associates or affiliates acts as a member of a selling group distributing 5% or less of the underwritten securities. However, this exemption is not available to entities that are underwriting a Distribution (as opposed to being in the selling group) and therefore the Funds cannot avail themselves of this exemption.

15. The Funds would not be restricted by the Prohibition if, in accordance with subsection 4.1(4) of NI 81-102, certain conditions are met, including that the IRC of the Funds has approved the transaction in accordance with subsection 5.2(2) of NI 81-107, that a prospectus is filed with one or more securities regulatory authorities or regulators in Canada in connection with a Relevant Offering and, during the 60-day Period, that the investment is made on an exchange on which the class of equity securities of the issuer is listed and traded.

16. The Filer will not be able to rely on subsection 4.1(4) of NI 81-102 if the offering is made on a Private Placement basis, as a prospectus is not filed in such circumstance. However, the Filer will comply with each of the other conditions in subsection 4.1(4), including subparagraph 4.1(4)(a) that the IRC of the Fund will approve any purchases of Securities during the Prohibition Period.

Decision

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

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

(a) At the time of each purchase of Securities by a Fund during a Prohibition Period for a Relevant Offering:

  (i) the investment will be in compliance with the investment objectives of the Fund;

  (ii) the Fund has an IRC that complies with NI 81-107;

  (iii) IRC of the Fund will have approved the investment in accordance with subsection 4.1(4)(a) of NI 81-102; and

  (iv) the Fund complies with paragraphs 4.1(4)(c)(ii) and 4.1(4)(d) of NI 81-102;

(b) Each issuer of Securities in a Relevant Offering is a reporting issuer under the applicable securities legislation in a Canadian jurisdiction at the time of each purchase by a Fund during the Prohibition Period for the Relevant Offering;

(c) (i) Prior to the first reliance on this Decision by a Fund, the website of the Fund or Filer, as applicable, discloses,

and

(ii) on the date which is the earlier of (A) the date when an amendment to the simplified prospectus of the Fund is filed for reasons other than this Decision and (B) the date on which the initial or renewal simplified prospectus of the Fund is receipted, Part A of the simplified prospectus of the Fund discloses,

that the Fund may invest in Securities during the Prohibition Period pursuant to this Decision, notwithstanding that a Related Underwriter has acted as underwriter in the Relevant Offering of the same class of such Securities.

(d) On the date which is the earlier of:

(i) the date when an amendment to the annual information form of the Fund is filed for reasons other than this Decision; and

(ii) the date on which the initial or renewal annual information form of the Fund is receipted,

the annual information form of the Fund discloses the information referred to in paragraph (c) above and describes the policies or procedures and standing instructions if any, that have been approved by the IRC in relation to investments that can only be made pursuant to this Decision.

This Decision will terminate on the coming into force of any legislation or rule of the Decision Maker in the Jurisdictions dealing with Private Placements in the context of section 4.1 of NI 81-102.

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

2.1.4 SMC Man AHL Alpha Fund et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to a commodity pool from paragraph 2.5(2)(a) and (c) of National Instrument 81-102 Mutual Funds to permit a commodity pool to gain exposure to another commodity pool implementing a two tiered structure, subject to certain conditions. The underlying commodity pool is not subject to National Instrument 81-101 Mutual Fund Prospectus Disclosure, and not qualified for distribution. The underlying commodity pool is a reporting issuer pursuant to a non-offering prospectus filed.

Applicable Legislative Provisions

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

March 5, 2010

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
SMC MAN AHL ALPHA FUND
(the "Filer")

AND

IN THE MATTER OF
SMC AHL HOLDINGS LTD.
(the "Trustee")

AND

IN THE MATTER OF
SCOTIA MANAGED COMPANIES
ADMINISTRATION INC.
(the "Administrator")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Administrator, on behalf of the Filer, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for exemptive relief (the "**Requested Relief**") from paragraphs 2.5(2)(a) and (c) of National Instrument 81-102 – *Mutual Funds* ("**NI 81-102**") to permit the Filer to invest indirectly in securities of the AHL Investment Strategies SPC – Class C AHL Alpha CAD Notes (the "**AHL SPC Class C**").

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

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

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

1. The Filer is an investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust.

2. The Trustee is the trustee of the Filer. The Trustee is responsible for, among other things, managing and supervising the business, operations and affairs of the Filer. The Trustee has retained the Administrator to administer the ongoing business, operations and affairs of the Fund. The principal office of each of the Trustee and the Administrator is located at 40 King Street West, 26th Floor, P.O. Box 4085, Station A, Toronto, Ontario M5W 2X6.

3. The Filer filed the preliminary prospectus dated December 23, 2009 (the "**Preliminary Prospectus**") on SEDAR (the System for Electronic Document Analysis and Retrieval, found at www.sedar.com) with respect to the proposed offering (the "**Offering**") of Class A Units and Class F Units (together, the "**Units**") of the Filer, a receipt for which was issued by the Commission on December 23, 2009.

4. The Filer is a commodity pool as such term is defined in section 1.1 of National Instrument 81-104 – *Commodity Pools* ("**NI 81-104**"), in that the Filer has adopted fundamental investment objectives that permit the Filer to gain exposure to or use or invest in specified derivatives in a manner that is not permitted under NI 81-102.

5. The Filer is subject to NI 81-102, NI 81-104 and the *Securities Act* (Ontario) (the "**Ontario Act**"), subject to any exemptions therefrom that may be granted by securities regulatory authorities. NI 81-104 also grants exemptions from certain investment restrictions of NI 81-102 to commodity pools.

6. The Filer's investment objective is to provide holders of Units (the "**Unitholders**") with the opportunity to realize capital appreciation through investment returns that have a low correlation to traditional forms of stock and bond securities. The investment objective of the Filer, as well as its investment strategy, are disclosed in the Preliminary Prospectus.

7. To pursue its investment objective, the Filer will obtain exposure to a diversified portfolio of financial instruments across a range of global markets including currencies, bonds, stocks, agriculturals, energy, metals and short-term interest rates (the "**AHL Portfolio**") using a multi-strategy and predominantly trend-following trading program (the "**AHL Alpha Programme**") that employs futures, options, forward contracts, swaps and other financial derivative instruments.

8. The Filer will obtain exposure to the AHL Portfolio through one or more forward purchase and sale agreements (collectively, the "**Forward Agreement**") to be entered into with one or more Canadian chartered banks and/or their affiliates (collectively, the "**Counterparty**").

9. The return to the Filer, and consequently to Unitholders, will by virtue of the Forward Agreement be referable to the return of Canadian dollar denominated redeemable Class C AHL Alpha CAD notes (the "**AHL SPC Notes**") proposed to be issued by the AHL SPC Class C in respect of the AHL Portfolio. The aggregate value at any time of the outstanding AHL SPC Notes will equal the aggregate net asset value of the AHL Portfolio.

10. The maximum exposure of a Unitholder to the AHL SPC Notes will be the amount invested by the Unitholder in the Filer. However, investment exposure to the AHL SPC Notes does not constitute a direct investment in the AHL Portfolio. Unitholders will not own AHL SPC Notes nor the assets held by the AHL Portfolio directly.

11. The AHL SPC Class C will establish and maintain the AHL Portfolio. The AHL SPC Class C is a segregated portfolio established by AHL Investment Strategies SPC (the "**AHL SPC**"), a segregated portfolio company incorporated with limited liability in the Cayman Islands and registered as a segregated portfolio company under the *Companies Law* (2007 Revision). The assets of the AHL Portfolio will be managed by Man Investments Limited (the "**Investment Manager**").

12. The Investment Manager is a company incorporated in England and Wales with limited liability (No. 2093429) whose registered address is Sugar Quay, Lower Thames Street, London EC3R 6DU, and is regulated in the conduct of regulated activities in the United Kingdom by the Financial Services Authority of the United Kingdom.

13. The AHL SPC Class C has filed and obtained a receipt for a final prospectus dated April 29, 2009 from the Commission and the Autorité des marchés financiers, pursuant to which it became a reporting issuer under the Ontario Act and the *Securities Act* (Québec). Accordingly, the financial statements and other reports required to be filed by the AHL SPC Class C are available through SEDAR.

14. The AHL SPC Class C is a commodity pool as such term is defined in section 1.1 of NI 81-104. The AHL SPC Class C is subject to the investment restrictions and practices contained in applicable Canadian securities legislation, including NI 81-102 and NI 81-104, and the AHL Portfolio will be managed in accordance with these restrictions and practices, subject to any exemptions therefrom that may be granted by securities regulatory authorities; however, the AHL SPC Class C is a mutual fund that is not subject to National Instrument 81-101 – *Mutual Fund Distributions* and its securities are not qualified for distribution in the local jurisdiction, as required by the provisions of paragraphs 2.5(2)(a) and (c) of NI 81-102.

15. The exposure of the Filer to securities of the AHL SPC Class C will be made in accordance with the provisions of section 2.5 of NI 81-102, except for the Requested Relief.

16. The Filer does not intend to list the Units on any stock exchange. Units of each class may be redeemed on a weekly basis for a redemption price equal to 100% of the NAV per Unit of that class less, if applicable, the redemption fee payable in connection with early redemptions of Units, subject to the Filer's right to suspend redemptions in certain circumstances.

17. None of the Trustee, the Administrator, the Filer or the AHL SPC Class C is in default of any securities legislation in any of the Jurisdictions.

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 Filer and the AHL SPC Class C are commodity pools subject to NI 81-102 and NI 81-104;

(b) the exposure of the Filer to securities of the AHL SPC Class C is in accordance with the fundamental investment objectives of the Filer;

(c) the Preliminary Prospectus discloses and the final prospectus of the Filer does disclose that the Filer will obtain exposure to securities of the AHL SPC Class C and, to the extent applicable, the risks associated with such an investment;

(d) the AHL SPC Class C is a reporting issuer subject to National Instrument 81-106 – Investment Fund Continuous Disclosure;

(e) no securities of the AHL SPC Class C are distributed in Canada other than to the counterparty under a forward agreement pursuant to which exposure is obtained to the AHL SPC Class C; and

(f) the indirect investment by the Filer in securities of the AHL SPC Class C is made in compliance with each provision of section 2.5 of NI 81-102, except paragraphs 2.5(2)(a) and (c) of NI 81-102.

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

2.1.5 YM Biosciences Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief in Multiple Jurisdictions – Relief granted from the requirement to file financial statements that have been audited in accordance with either Canadian or United States generally accepted auditing standards with a business acquisition report – Financial statements audited in accordance with International Standards on Auditing.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, ss. 6.2, 9.1.
National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.2. 8.3, 8.4.

February 12, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, MANITOBA, QUEBEC
AND NOVA SCOTIA
(the "Jurisdictions")

AND

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

AND

IN THE MATTER OF
YM BIOSCIENCES INC.
(the "Filer")

DECISION

Background

The security regulatory authority or regulator in each of 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 be exempted from complying with section 6.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* ("**NI 52-107**") pursuant to which the annual financial statements of the acquired company, which must be included in the Filer's BAR (as defined below) in respect of the Acquisition (as defined below) pursuant to section 8.4 of National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**"), must be audited in accordance with the prescribed form of auditing standards set out in section 6.2 of NI 52-107 ("**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 (the **Principal Regulator**); and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec and Nova Scotia.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning as is 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 continued under the laws of Nova Scotia.

2. The Filer's head office is located at 5054 Orbitor Drive, Building 11, Suite 400, Mississauga, Ontario, L4W 4Y4.

3. The Filer is a biopharmaceutical company engaged in the development of drugs and other products primarily for the treatment of cancer. The Filer in-licenses substances designed for use by cancer patients in anti-cancer therapy in order to advance them along the regulatory and clinical pathways toward commercial approval.

4. The common shares of the Filer are listed and posted for trading on the Toronto Stock Exchange under the symbol "YM" and the NYSE AMEX under the symbol "YMI".

5. The Filer is not in default of any of its obligations as a reporting issuer under the Legislation of the Jurisdictions.

6. As described in a press release dated October 5, 2009 and a material change report dated October 9, 2009, the Filer proposed to merge with Cytopia Limited ("**Cytopia**") pursuant to a scheme of arrangement in Australia.for the purpose of acquiring (the "**Acquisition**") all of the outstanding shares of Cytopia. The Acquisition was completed on January 29, 2010 as disclosed in a press release dated February 1, 2010 and a material change report dated February 3, 2010.

7. Prior to the Acquisition, Cytopia was a public company based in Australia whose ordinary shares traded on the Australian Stock Exchange.

8. The Acquisition was a "significant acquisition" for the Filer, within the meaning of section 8.3 of NI 51-102, such that the Filer is required to file a business acquisition report (the "**BAR**") in accordance with section 8.2 of NI 51-102 in respect of the Acquisition.

9. Pursuant to section 8.4 of NI 51-102, audited annual financial statements of Cytopia for the period ended June 30, 2009 (the "**Audited Financial Statements**") are required to be included in the BAR.

10. The Audited Financial Statements have been prepared in accordance with International Financial Reporting Standards ("**IFRS**") issued by the International Accounting Standards Board ("**IASB**") and audited in accordance with International Standards on Auditing ("**ISA**") issued by the International Auditing and Assurance Standards Board ("**IAASB**").

11. The auditor of Cytopia has expertise and experience in ISA. The auditor of Cytopia uses a standard audit methodology that complies with ISA.

12. The auditor of Cytopia is a member of the BDO network of accounting firms worldwide. The auditor of Cytopia is able to make the statements set out in paragraph 2 of this decision as a result of consultations with the auditor's Canadian associate firm in the BDO international network.

13. Section 6.2 of NI 52-107 does not permit the Filer to file the Audited Financial Statements audited in accordance with ISA as the Filer is not a "foreign issuer" within the meaning of NI 52-107.

14. As announced by the Canadian Institute of Chartered Accountants, the Canadian Auditing and Assurance Standards Board is adopting ISA as Canadian Auditing Standards ("**CAS**") for the audits of financial statements. Once effective, the CAS will constitute Canadian generally accepted auditing standards for financial statement audits; the CAS will come into effect for audits of financial statements for periods ending on or after December 14, 2010.

15. The Audited Financial Statements were prepared in accordance with IFRS issued by the IASB and audited in accordance with ISA issued by the IAASB pursuant to requirements governing publicly-traded companies in Australia, including the requirements of the Australian Stock Exchange.

16. Having the Audited Financial Statements audited a second time in accordance with Canadian or U.S. GAAS would cause the Filer to incur substantial additional costs and management time and potentially material delay in filing its BAR in respect of the Acquisition.

Decision

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

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted, provided that:

1. the Audited Financial Statements are audited in accordance with ISA issued by the IAASB; and

2. the Audited Financial Statements are accompanied by an auditor's report from the auditor of Cytopia, which contains or is accompanied by a statement by the auditor that:

    a. describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in accordance with Canadian GAAS; and

    b. indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.6 Navina Capital Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Fund of fund – top fund is a closed-end fund that holds forward contract providing tax efficient exposure to the bottom fund – bottom fund is a mutual fund – relief granted to permit both funds to engage in short selling of up to 20% of net assets, subject to certain conditions and requirements – bottom fund to short sell portfolio securities immediately – top fund intends to convert to a mutual fund subject to NI 81-102 – top fund may be required to short sell to meet its investment objectives and strategies if forward agreement terminated after conversion – standard conditions imposed on the amount and nature of short-selling conducted by the funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.6(a), 2.6(c), 6.1(1), 19.1.

March 5, 2010

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
NAVINA CAPITAL CORP.
(the Filer),

AND

LAZARD GLOBAL CONVERTIBLE BOND FUND
(the Top Fund) AND LAZARD STRATEGIC GLOBAL
CONVERTIBLE BOND TRUST (the Bottom Fund and,
together with the Top Fund, the Funds,
and individually, a Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Bottom Fund, and, following Conversion (as defined below), the Top Fund from the following requirements of National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) (the **Exemption Sought**):

(a) subsection 2.6(a) of NI 81-102 to permit a Fund to provide a security interest over such Fund's assets;

(b) subsection 2.6(c) of NI 81-102 to permit a Fund to sell securities short; and

(c) subsection 6.1(1) of NI 81-102 to permit a Fund to deposit its assets with an entity other than such Fund's custodian.

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 11-10**2) is intended to be relied upon in each of the provinces of Canada other than the province of Ontario (together with the Jurisdiction, 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:

Organization and Structure

1. The Filer is the manager of the Funds. The head office of the Filer is located in Ontario. The Filer and the Funds are not in default of securities legislation in any jurisdiction.

2. The Filer has retained Lawrence Asset Management Inc. (the **Investment Manager**) to provide investment advisory and portfolio management services to the Funds. The Investment Manager is registered in Ontario in the category of Portfolio Manager. The Investment Manager has retained Lazard Asset Management LLC to provide investment advisory and portfolio management services to the Bottom Fund.

3. On December 9, 2009, the Top Fund completed an offering of its units to the public on a best efforts basis pursuant to a final long form prospectus dated November 25, 2009 (the **Top Fund Prospectus**) and filed in each of the Jurisdictions (the **Offering**). The units of the Top Fund are listed and posted for trading on the Toronto Stock Exchange.

4. The Top Fund is a closed-end investment trust governed by the laws of the Province of Ontario. The Top Fund's investment objectives are to provide its unitholders with: (a) monthly tax-efficient distributions initially targeted to be $0.0583 per unit ($0.70 per annum to yield 7.0% on the $10.00 per unit issue price); and (b) the opportunity for capital appreciation by obtaining exposure to an actively managed portfolio comprised primarily of U.S. dollar denominated global convertible bonds (the **Portfolio**). The Top Fund will obtain exposure to the Portfolio by entering into the Forward Agreement (as defined below).

5. The Top Fund invested the net proceeds of the Offering in a portfolio of common shares of Canadian public companies (the **Common Share Portfolio**). The Top Fund then entered into a forward agreement (the **Forward Agreement**) with a Canadian chartered bank or an affiliate of a Canadian chartered bank whose obligations are guaranteed by a Canadian chartered bank (the **Counterparty**). Pursuant to the Forward Agreement, the Counterparty agreed to pay to the Top Fund on the business day immediately prior to Conversion (the **Forward Termination Date**), as the purchase price for the Common Share Portfolio, an amount based on the value of either: (i) the units of the Bottom Fund; or (ii) a notional portfolio comprised primarily of U.S. dollar denominated global convertible bonds managed by the Investment Manager. The Top Fund will partially settle the Forward Agreement prior to the Forward Termination Date in order to fund monthly distributions as well as redemptions of its units and for payment of expenses of the Top Fund.

6. It is intended that on or about June 30, 2011, the Top Fund will automatically convert to an open-end mutual fund and de-list its units which will become redeemable daily at their net asset value per unit (the **Conversion**). The Filer intends to extend the Forward Agreement beyond Conversion.

7. After Conversion, the Top Fund will be governed by, and operate in accordance with, NI 81-102. To the extent that the portfolio of the Top Fund, the Top Fund's investment practices or any other aspect of its operations are not compliant with NI 81-102, the Filer will apply for exemptive relief or else will conform its portfolio, practices and/or operations to comply with the requirements of NI 81-102.

8. Following Conversion, the Filer expects to cause the Top Fund to prepare and file a simplified prospectus under Form 81-101F1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) in each of the Jurisdictions for the issue of additional units to be issued and sold on a continuous basis at their net asset value per unit.

9. The Bottom Fund is an open-end investment trust governed by the laws of Ontario established to acquire the Portfolio.

10. Units of the Bottom Fund will not be listed on an exchange and will be redeemable daily at their net asset value per unit. In anticipation of the Conversion and the resulting application to the Top Fund, as an open-end mutual fund, of NI 81-102, the Bottom Fund wished to attract the application of NI 81-102. To that end, the Bottom Fund has issued one

unit to the Filer for nominal consideration pursuant to a final long form prospectus dated November 26, 2009 (the **Bottom Fund Prospectus**) and filed in the provinces of Ontario and Québec, which unit was subsequently redeemed by the Bottom Fund.

11. As a result, the Bottom Fund is a mutual fund under securities legislation, subject to NI 81-102. However, the operations of the Bottom Fund will differ from those of a conventional mutual fund. Unlike a conventional mutual fund, the Bottom Fund does not intend to issue units on a continuous basis under the Bottom Fund Prospectus. The Bottom Fund has issued one unit to the Filer under the Bottom Fund Prospectus and no other units of the Bottom Fund will be issued under the Bottom Fund Prospectus.

12. The Bottom Fund has obtained relief from the principal regulator under the securities legislation of the Jurisdiction exempting the Bottom Fund from Section 2.1 of NI 81-101 to permit the Bottom Fund to qualify its units for distribution by filing the Bottom Fund Prospectus in the form of Form 41-101F2 prescribed under National Instrument 41-101 – *General Prospectus Requirements*, rather than by simplified prospectus using Form 81-101F1 prescribed under NI 81-101.

13. The Filer has undertaken to cause the Bottom Fund to file a simplified prospectus with the securities regulators in each of the provinces of Canada pursuant to NI 81-101 prior to Conversion as contemplated in the Top Fund Prospectus unless otherwise confirmed by the principal regulator.

14. The Filer proposes the Funds be permitted to engage in short selling. The Filer is of the view that the implementation of short selling by a Fund will assist such Fund in achieving its investment objective(s).

15. The Bottom Fund Prospectus discloses that the Bottom Fund has applied for the Exemption Sought to be permitted to engage in short selling and that any short-selling by the Bottom Fund will be subjects to the terms and conditions of this relief.

16. Any short sales made by a Fund will be consistent with Fund's investment objective(s).

17. In order to effect a short sale, a Fund will borrow securities from either its custodian or a dealer (in either case, the **Borrowing Agent**), which Borrowing Agent may be acting either as principal for its own account or as agent for other lenders of securities.

18. A Fund will implement the following controls when conducting a short sale:

    (a) securities will be sold short for cash, with the Fund assuming the obligation to return to the Borrowing Agent the securities borrowed to effect the short sale;

    (b) the short sale will be effected through market facilities through which the securities sold short are normally bought and sold;

    (c) the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (d) the securities sold short will be "liquid securities" that:

        (i) are listed and posted for trading on a stock exchange, and

            (A) the issuer of the security has a market capitalization of not less than CDN$300 million, or the equivalent thereof, of such security at the time the short sale is effected; or

            (B) the investment advisor has pre-arranged to borrow for the purposes of such short sale;

        or

        (ii) are fixed income securities, bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province or territory of Canada or the Government of the United States of America;

    (e) at the time securities of a particular issuer are sold short:

        (i) the aggregate market value of all securities of that issuer sold short by the Fund will not exceed 5% of the net assets of the Fund; and

(ii) the Fund will place a stop-loss order with a dealer to immediately purchase for the Fund an equal number of the same securities if the trading price of the securities exceeds 120% (or such lesser percentage as the Filer may determine) of the price at which the securities were sold short;

(f) the Fund will deposit Fund assets with the Borrowing Agent as security in connection with the short sale transaction;

(g) the Fund will keep proper books and records of all short sales and Fund assets deposited with Borrowing Agents as security; and

(h) the Fund will develop written policies and procedures for the conduct of short sales prior to conducting any short sales.

19. The Top Fund and the Bottom Fund have provided disclosure in the Top Fund Prospectus and the Bottom Fund Prospectus, respectively and will provide disclosure in any simplified prospectus and annual information form they file pursuant to NI 81-101 and any amendment thereto, of the short selling strategies and the details of this exemptive relief prior to implementing the short selling strategy.

20. In the absence of being granted the Exemption Sought, the Bottom Fund, and, following Conversion, the Top Fund may not provide a security interest over such Fund's assets, sell securities short or deposit its assets with an entity other than such Fund's custodian.

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 aggregate market value of all securities sold short by the Fund does not exceed 20% of the net assets of the Fund on a daily marked-to-market basis;

(b) any short sale made by the Fund is subject to compliance with the investment objective(s) of the Fund;

(c) the Fund maintains appropriate internal controls regarding its short sales including written policies and procedures, risk management controls and proper books and records;

(d) the Fund holds "cash cover" (as defined in NI 81-102) in an amount, including the Fund assets deposited with the Borrowing Agents as security in connection with short sale transactions, that is at least 150% of the aggregate market value of all securities sold short by the Fund on a daily marked-to-market basis;

(e) at the time securities of a particular issuer are sold short by the Fund, the aggregate market value of all securities of that issuer sold short will not exceed 5% of the net assets of the Fund;

(f) no proceeds from short sales by the Fund are used by the Fund to purchase long positions in securities other than cash cover;

(g) for short sale transactions of the Fund in Canada, every dealer that holds Fund assets as security in connection with short sale transactions by the Fund shall be a registered dealer in Canada and a member of a self-regulatory organization that is a participating member of the Canadian Investor Protection Fund;

(h) for short sale transactions of the Fund outside of Canada, every dealer that holds Fund assets as security in connection with short sale transactions by the Fund shall:

(i) be a member of a stock exchange and, as a result, be subject to a regulatory audit; and

(ii) have a net worth in excess of the equivalent of CDN$50 million determined from its most recent audited financial statements that have been made public;

(i) except where the Borrowing Agent is a Fund's custodian or a sub-custodian thereof, when the Fund deposits Fund assets with a Borrowing Agent as security in connection with a short sale transaction, the amount of Fund assets deposited with the Borrowing Agent does not, when aggregated with the amount of Fund assets already held by the

Borrowing Agent as security for outstanding short sale transactions of the Fund, exceed 10% of the net assets of the Fund, taken at market value as at the time of the deposit;

(j) the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect short sale transactions is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

(k) the Bottom Fund, and prior to conducting any short sales the Top Fund, discloses in its simplified prospectus and any amendment thereto a description of: (i) short selling, (ii) how the Fund intends to engage in short selling, (iii) the risks associated with short selling, and (iv) in the Investment Strategy section of its simplified prospectus, the Fund's strategy and this exemptive relief;

(l) the Bottom Fund, and prior to conducting any short sales the Top Fund, discloses in its annual information form or any amendment thereto the following information:

(i) that there are written policies and procedures in place that set out the objectives and goals for short selling and the risk management procedures applicable to short selling;

(ii) who is responsible for setting and reviewing the policies and procedures referred to in the preceding paragraph, how often the policies and procedures are reviewed, and the extent and nature of the involvement of the trustee in the risk management process;

(iii) the trading limits or other controls on short selling in place and who is responsible for authorizing the trading and placing limits or other controls on the trading;

(iv) whether there are individuals or groups that monitor the risks independent of those who trade; and

(v) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions.

The Exemption Sought shall terminate upon the coming into force of any legislation or rule of the principal regulator dealing with the matters referred to in subsection 2.6(a), 2.6(c) and 6.1(1) of NI 81-102.

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

2.1.7 Broadridge Financial Solutions, Inc. and Intermediary, Registrant And Custodian Clients of the Filer

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Intermediary, registrant and custodian clients of a service provider granted exemptive relief from requirements in securities legislation (i) to give beneficial owner a proxy, and (ii) relating to requests for and delivery of legal proxies – Condition of relief is that service provider implements on behalf of its clients an alternate process (appointee process) for beneficial owners to be able to attend and vote at securityholder meetings – List of clients provided part of application will be kept confidential and not made public as client list is of commercially sensitive nature and publication could have serious adverse competitive consequences – Relief (other than confidentiality of client list) will terminate on December 31, 2010.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 49(5), 147.
National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, ss. 1.1, 4.5, 9.2.
Form 54-101F7 Request for Voting Instructions Made by Intermediary.
Form 54-101F7 Legal Proxy.

February 19, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

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

AND

IN THE MATTER OF
BROADRIDGE FINANCIAL SOLUTIONS, INC.
(the "Filer")
AND INTERMEDIARY, REGISTRANT AND
CUSTODIAN CLIENTS OF THE FILER

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the "Application") from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "Legislation") that:

1. the intermediary, registrant and custodian clients (the "Clients") of the Filer specified in a list of clients dated as of January 1, 2010 and included with the Application (the "Client List") be exempted from the requirement under applicable securities legislation that a registrant or custodian (or in the case of Québec, a dealer) (each a "Subject Person"), if requested by a beneficial owner, give to the beneficial owner or his, her or its nominee a proxy enabling the beneficial owner or the nominee to vote any voting securities of an issuer registered in the name of the Subject Person's nominee or the Subject Person (the "Subject Person Exemption"); and

2. the Clients as specified in the Client List be exempted from the requirements under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* ("NI 54-101") that:

   (a) an intermediary deliver a legal proxy to any beneficial owner that requests such legal proxy;

   (b) an intermediary include instructions in Form 54-101F7 *Request for Voting Instructions Made by Intermediary* regarding requesting and obtaining a legal proxy; and

   (c) a legal proxy be in the form prescribed by Form 54-101F8 *Legal Proxy*

   (the relief from the requirements in paragraphs (a), (b) and (c) collectively, the "NI 54-101 Exemption").

Furthermore, the principal regulator in the Jurisdiction has received a request from the Filer for a decision that the Client List be kept confidential and not be made public (the "Confidentiality Sought").

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

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

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

Interpretation

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

Representations

This decision is based on the following representations by the Filer:

1. The Filer is a service provider whose services include delivery of securityholder communications on behalf of corporate issuers, mutual fund managers and banks, brokers and trust companies, and delivery of other documents in compliance with applicable securities laws.

2. The Filer's head office is located in Ontario.

3. Under NI 54-101, if a beneficial owner wishes to attend a securityholder meeting in person, or appoint a nominee to attend such meeting in his, her or its place, such securityholder must request his, her or its intermediary to issue the securityholder a legal proxy.

4. There are four separate communications that must occur under these circumstances: (i) the intermediary prepares and sends a voting instruction form ("VIF") in Form 54-101F7 to each beneficial owner; (ii) a beneficial owner who wishes to attend a securityholder meeting in person, or appoint another person to attend such a meeting in his, her or its place, must request a legal proxy on his, her or its VIF; (iii) the intermediary sends a legal proxy to each beneficial owner who has requested a legal proxy; and (iv) the beneficial owner who has requested a legal proxy must complete and return such proxy to the issuer or its agent prior to the established proxy cut-off time (these communications collectively the "Legal Proxy System").

5. Pursuant to National Policy Statement 41 – *Shareholder Communication* ("NP41"), the predecessor to NI 54-101, the "appointee system" (the "Appointee System") had been developed. Under the Appointee System, a beneficial owner wishing to attend a meeting inserts his, her or its own name, or that of his, her or its appointee, on the VIF submitted to an intermediary in response to a request for voting instructions. The intermediary then issues a "cumulative proxy" to the issuer's proxy tabulator or meeting scrutineer, which includes the names of all such requesting beneficial owners or their appointees, the respective numbers of securities held by them and any instructions indicated on the VIF as to how such securities are to be voted. The cumulative proxy is delivered in advance of any voting or proxy deposit deadline prescribed by corporate law or provided for by the issuer.

6. The Appointee System has been in use for a substantial period of time, and is accepted by intermediaries, beneficial owners and transfer agents. The use of the Appointee System has been incorporated into the Proxy Protocol prepared by the Securities Transfer Association of Canada.

7. The Filer performs the actions described in paragraphs 4 and 5 as agent for its Clients.

8. On behalf of its Clients, the Filer has, since the replacement of NP 41 by NI 54-101, continued to make available to beneficial owners the Appointee System as an alternative to the Legal Proxy System.

9. If the Subject Person Exemption and the NI 54-101 Exemption are granted, the Filer will implement the Appointee System as described in paragraph 5 in lieu of the Legal Proxy System currently mandated under NI 54-101 and the provisions of applicable securities legislation referred to in paragraph 1 under "Background".

10. Specifically, a VIF prepared and sent by the Filer to beneficial owners on behalf of its Clients will not include instructions regarding requesting and obtaining a legal proxy, and will give a beneficial owner that wishes to attend, vote and act at the relevant meeting (or designate an appointee do so) the option to fill in a provided line or space, naming the beneficial owner (or his, her or its appointee) as the relevant Client's proxy to attend, vote and act on the beneficial owner's behalf at the meeting.

11. The Client List is of a commercially sensitive nature, and disclosure of the Client List could have serious adverse competitive consequences to the Filer.

Decision

The principal regulator is satisfied that the decision meets the tests 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 Subject Person Exemption is granted to the Filer and its Clients provided that:

(a) the Filer implements the Appointee System on behalf of its Clients in lieu of the Legal Proxy System; and

(b) the Subject Person Exemption will terminate on December 31, 2010.

The further decision of the principal regulator is that the Confidentiality Sought is granted.

"David L. Knight"
Commissioner

"Margot C. Howard"
Commissioner

The decision of the principal regulator under the Legislation is that the NI 54-101 Exemption is granted to the Filer and its Clients provided that:

(a) the Filer implements the Appointee System on behalf of its Clients in lieu of the Legal Proxy System; and

(b) the NI 54-101 Exemption will terminate on December 31, 2010.

The further decision of the principal regulator is that the Confidentiality Sought is granted.

"Michael Brown"
Assistant Manager, Corporate Finance Branch

2.2 Orders

2.2.1 Brilliante Brasilcan Resources Corp. – ss. 127(1), 127(2), 127(8)

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

AND

**IN THE MATTER
BRILLIANTE BRASILCAN RESOURCES CORP.,
YORK RIO RESOURCES INC.,
BRIAN W. AIDELMAN, JASON GEORGIADIS,
RICHARD TAYLOR AND VICTOR YORK**

**ORDER
(Subsections 127(1), (2) and (8))**

WHEREAS on October 21, 2008, the Ontario Securities Commission ("Commission") ordered pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in the securities of Brilliante Brasilcan Resources Corp. ("Brilliante") shall cease and that Brilliante, York Rio Resources Inc. ("York Rio") and their representatives, including Brian W. Aidelman ("Aidelman"), Jason Georgiadis ("Georgiadis"), Richard Taylor ("Taylor"), and Victor York ("York") shall cease trading in all securities (the "Temporary Order");

AND WHEREAS on October 21, 2008, the Commission further ordered pursuant to subsection 127(6) of the Act that the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS the Commission issued a Notice of Hearing on October 23, 2008 to consider, among other things, whether to extend the Temporary Order;

AND WHEREAS on November 4, 2008 the Commission adjourned the hearing to November 14, 2008 at 10:00 a.m. and further extended the Temporary Order until the close of business on November 14, 2008;

AND WHEREAS on November 14, 2008, the Commission amended the Temporary Order (the "Amended Temporary Order") to permit each of York, Aidelman, Georgiadis and Taylor to trade securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;

(ii) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

(iii) he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and

(iv) he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;

AND WHEREAS on November 14, 2008, the Commission adjourned the hearing to March 3, 2009 at 2:30 p.m. and further extended the Amended Temporary Order until March 4, 2009;

AND WHEREAS on March 3, 2009, the Commission adjourned the hearing to September 3, 2009 at 10:00 a.m. and further extended the Amended Temporary Order until September 4, 2009;

AND WHEREAS on September 3, 2009, the Commission adjourned the hearing to March 3, 2010 at 10:00 a.m. and further extended the Amended Temporary Order, until March 4, 2010;

AND WHEREAS the Commission has been informed by Staff that York, Brilliante and Aidelman are not opposed to the extension of the Amended Temporary Order;

AND WHEREAS the Commission has been informed by Staff that they have not heard from York Rio, Georgiadis and Taylor with respect to the hearing of March 3, 2010;

AND WHEREAS the Commission is satisfied that reasonable steps have been taken by Staff to give all Respondents notice of the hearing and all Respondents, other than Taylor, have been duly served with such notice;

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS satisfactory information has not been provided by the Respondents to the Commission;

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

IT IS ORDERED pursuant to subsection 127(8) of the Act that the hearing is adjourned to April 12, 2010 at 9:00 a.m.;

IT IS FURTHER ORDERED pursuant to subsection 127(8) of the Act that the Amended Temporary Order is extended until close of business on April 13, 2010, subject to further extension by order of the Commission;

DATED at Toronto this 3rd day of March, 2010.

"David L. Knight"

2.2.2 York Rio Resources Inc. et al.

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

AND

**IN THE MATTER OF
YORK RIO RESOURCES INC.,
BRILLIANTE BRASILCAN RESOURCES CORP.,
VICTOR YORK, ROBERT RUNIC,
GEORGE SCHWARTZ, PETER ROBINSON,
ADAM SHERMAN, RYAN DEMCHUK,
MATTHEW OLIVER, GORDON VALDE AND
SCOTT BASSINGDALE**

**ORDER
(Section 127 of the Securities Act)**

WHEREAS on March 2, 2010, the Commission issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the Act accompanied by a Statement of Allegations dated March 2, 2009, issued by Staff of the Commission ("Staff") with respect to York Rio Resources Inc. ("York Rio"), Brilliante Brascan Resources Corp. ("Brilliante"), Victor York ("York"), Robert Runic ("Runic"), George Schwartz ("Schwartz"), Peter Robinson ("Robinson"), Adam Sherman ("Sherman"), Ryan Demchuk ("Demchuk"), Matthew Oliver ("Oliver"), Gordon Valde ("Valde") and Scott Bassingdale ("Bassingdale"), (collectively, the "Respondents");

AND WHEREAS on March 3, 2010. Staff informed the Commission that on March 2, 2010, service of the Notice of Hearing and Statement of Allegations was attempted on all Respondents electronically, through their counsel or at their last known address;

AND WHEREAS on March 3, 2010, Staff informed the Commission that on March 2, 2010, York, Runic, Schwartz, Robinson, Sherman, Oliver, Valde and Bassingdale were served with the Notice of Hearing and Statement of Allegations;

AND WHEREAS on March 3, 2010, Sherman and counsel for Robinson attended at the hearing;

AND WHEREAS on March 3, 2010, Staff informed the Commission that counsel for York and counsel for Oliver had contacted Staff and indicated that they could not attend the hearing on March 3, 2010 but could attend at a later date;

AND WHEREAS on March 3, 2010, upon hearing submissions from counsel for Staff, Sherman and counsel for Robinson;

IT IS ORDERED THAT the hearing is adjourned to April 12, 2010 at 9:00 a.m. or such other date as is agreed by the parties and determined by the Office of the Secretary.

DATED at Toronto this 3rd day of March, 2010.

"David L. Knight"

2.2.3 Peter Robinson and Platinum International Investments Inc.

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

AND

IN THE MATTER OF
PETER ROBINSON AND
PLATINUM INTERNATIONAL INVESTMENTS INC.

ORDER

WHEREAS on December 18, 2009, the Secretary of the Commission issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission at 20 Queen Street West, on Monday, January 11th, 2010 at 11 a.m., or as soon thereafter as the hearing can be held;

WHEREAS the Notice of Hearing provides for the Commission to consider, among other things, whether, in the opinion of the Commission, it is in the public interest, pursuant to s. 127(5) of the Act to issue a temporary order that:

> The respondents, Platinum International Investments Inc. ("Platinum") and Peter Robinson ("Robinson") (collectively the "Respondents") shall cease trading in any securities;

AND WHEREAS Staff served the Respondents with copies of the Notice of Hearing and Staff's Statement of Allegations dated December 17, 2009, as evidenced by the Affidavit of Kathleen McMillan sworn on January 11, 2009, and filed with the Commission;

AND WHEREAS Staff served the Respondents with a copy of the Affidavit of Lori Toledano, affirmed on January 8, 2010, as evidenced by the Affidavit of Service of Kathleen McMillan sworn on January 8, 2010;

AND WHEREAS on January 11, 2010 Staff of the Commission and Robinson appeared before the Commission and made submissions. Robinson appeared in his personal capacity and as the sole registered director of Platinum. During the hearing on January 11, 2010, Robinson advised the Commission that he consented to the issuance of a temporary cease trade order against himself and against Platinum;

AND WHEREAS on January 11, 2010, Robinson requested an adjournment of the hearing in order to retain counsel;

AND WHEREAS on January 11, 2010, the panel of the Commission considered the Affidavit of Lori Toledano and the submissions made by Staff and Robinson;

AND WHEREAS on January 11, 2010, the panel of the Commission ordered, pursuant to section 127 (5) of the Act, that Robinson and Platinum cease trading in any securities (the "Temporary Cease Trade Order") and that the Temporary Cease Trade Order is extended, pursuant to section 127(8) of the Act, until February 4, 2010;

AND WHEREAS on January 11, 2010, the panel of the Commission ordered that the hearing with respect to this matter was adjourned to February 3, 2010, at 9:00 a.m.;

AND WHEREAS on February 3, 2010, Staff of the Commission and counsel for Robinson and Platinum appeared before the Commission and made submissions;

AND WHEREAS on February 3, 2010, Staff requested an adjournment of the hearing and an extension of the Temporary Cease Trade Order and counsel for Robinson did not oppose Staff's request;

AND WHEREAS on February 3, 2010, the panel of the Commission ordered that, pursuant to subsection 127(8) of the Act, the Temporary Cease Trade Order is extended until March 8, 2010 and that the hearing with respect to this matter is adjourned to March 5, 2010, at 10:00 a.m.;

AND WHEREAS on March 5, 2010, Staff of the Commission and counsel for Robinson appeared before the Commission and made submissions;

AND WHEREAS on March 5, 2010, Staff requested an adjournment of the hearing and an extension of the Temporary Cease Trade Order and counsel for Robinson did not oppose Staff's request;

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

IT IS ORDERED that, pursuant to subsection 127(8) of the Act, the Temporary Cease Trade Order is extended until April 13, 2010; and

IT IS FURTHER ORDERED that the hearing with respect to this matter is adjourned to April 12, 2010, at 9:15 a.m.

DATED at Toronto this 8th day of March, 2010.

"David L. Knight"

2.2.4 Sulja Bros. Building Supplies, Ltd. et al.

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL MANAGEMENT INC., ANDREW DE VRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA

ORDER

WHEREAS on December 22, 2006, the Ontario Securities Commission (the "Commission") ordered pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that immediately for a period of 15 days from the date thereof: (a) all trading in securities of Sulja Bros. Building Supplies, Ltd. ("Sulja Nevada") cease; and (b) any exemptions in Ontario securities law do not apply to the respondents Sulja Nevada, Sulja Bros. Building Supplies Ltd. ("Sulja Ontario"), Kore International Management Inc. ("Kore International"), Peter Vucicevich ("Vucicevich") and Andrew De Vries ("De Vries") (the "Temporary Order");

AND WHEREAS on December 27, 2006, the Commission issued a Notice of Hearing and Staff of the Commission ("Staff") issued a Statement of Allegations in this matter;

AND WHEREAS on January 8, 2007, the Temporary Order was extended to March 23, 2007;

AND WHEREAS on March 23, 2007, the Temporary Order was extended to July 5, 2007;

AND WHEREAS on July 5, 2007, the Temporary Order was extended to September 7, 2007;

AND WHEREAS on September 7, 2007, the Temporary Order was extended to October 31, 2007;

AND WHEREAS on October 31, 2007, the Temporary Order was extended to January 22, 2008;

AND WHEREAS on January 22, 2008, the Temporary Order was extended to March 28, 2008;

AND WHEREAS on March 28, 2008, the Temporary Order was extended to May 23, 2008;

AND WHEREAS on May 23, 2008, the Temporary Order was extended to June 23, 2008;

AND WHEREAS on June 16, 2008, the Commission issued a Notice of Hearing and Staff filed an Amended Statement of Allegations which added additional respondents to this matter: Steven Sulja, Pranab Shah ("Shah"), Tracey Banumas ("Banumas") and Sam Sulja;

AND WHEREAS on June 23, 2008, the Temporary Order was extended to September 11, 2008;

AND WHEREAS on September 11, 2008, the Commission ordered that this matter be set down for a hearing on the merits beginning November 16, 2009, and concluding December 11, 2009, excluding the dates of November 24 and December 8, 2009;

AND WHEREAS on September 11, 2008, the Commission ordered that the Temporary Order against Sulja Nevada, Kore International, Vucicevich and De Vries is extended to the conclusion of the hearing on the merits in this matter;

AND WHEREAS on October 29, 2009, the Commission allowed a motion for counsel for Vucicevich, Kore International, Banumas and Shah to withdraw from the record and to adjourn the hearing on the merits;

AND WHEREAS on October 29, 2009, the Commission ordered the matter adjourned to December 4, 2009 at 10 a.m. for Vucicevich, Kore International, Banumas and Shah or new counsel on their behalf to attend for the purpose of scheduling a pre-hearing conference;

AND WHEREAS on December 4, 2009, Vucicevich attended before the Commission and advised that he, Shah, Banumas and Kore International had not yet retained new counsel. Vucicevich also advised the Commission of the efforts that had been made to retain new counsel and that new counsel should be retained by January 2010;

AND WHEREAS on December 4, 2009, this matter was adjourned to January 8, 2010, at 10 a.m., to set a date for a pre-hearing conference, whether or not new counsel had been retained for Vucicevich, Banumas, Kore International and Shah.

AND WHEREAS none of the Respondents attended by 10:00 am on January 8, 2010;

AND WHEREAS on January 8, 2010, a pre-hearing conference was scheduled for March 4, 2010, at 10:00am;

AND WHEREAS Vucicevich, Banumas, Shah and Kore International appeared at the March 4, 2010, pre-hearing conference, advised that they had not yet retained counsel and made submissions on their own account;

AND WHEREAS counsel for Sam Sulja, Steve Sulja and Sulja Nevada confirmed in advance that he would not be attending the March 4, 2010, pre-hearing conference;

AND WHEREAS Andrew De Vries did not attend, though served with notice of the March 4, 2010, pre-hearing conference;

AND WHEREAS Staff appeared and made submissions;

IT IS ORDERED that this matter will proceed to a hearing on the merits on the following dates in 2010: September 13; the afternoon of September 14; September 15-17; September 20-24; October 4-8; October 13-15; October 18 and 19;

IT IS FURTHER ORDERED that the matter will return for a further pre-hearing conference to be held on May 7, 2010, at 10:00 am, to address any remaining pre-hearing issues.

DATED at Toronto this 4th day of March, 2010.

"Carol S. Perry"

2.2.5 Innovative Gifting Inc. et al. – s. 127

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

AND

IN THE MATTER OF
INNOVATIVE GIFTING INC.,
TERENCE LUSHINGTON, Z2A CORP., AND
CHRISTINE HEWITT

ORDER
(Section 127)

WHEREAS on February 20, 2009, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering, *inter alia*, that all trading in securities by Innovative Gifting Inc. ("IGI") shall cease (the "Temporary Order");

AND WHEREAS, on February 20, 2009, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on February 23, 2009 the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on March 6, 2009 at 10:00 a.m.;

AND WHEREAS the Notice of Hearing set out that the Hearing was to consider, *inter alia*, whether, in the opinion of the Commission, it was in the public interest, pursuant to subsections 127 (7) and (8) of the Act, to extend the Temporary Order until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

AND WHEREAS on March 6, July 10, November 30, 2009 and on February 3, 2010, hearings were held before the Commission and the Commission ordered that the Temporary Order be extended;

AND WHEREAS on February 3, 2010, the Commission ordered that the Temporary Order be extended until March 8, 2010 and the hearing with respect to the matter be adjourned to March 5, 2010;

AND WHEREAS on March 2, 2010, the Commission issued a Notice of Hearing to consider, *inter alia*, whether to make orders, pursuant to sections 127, and 127.1 of the Act, against IGI, Terence Lushington ("Lushington"), Z2A Corp. ("Z2A"), and Christine Hewitt ("Hewitt") (collectively the "Respondents");

AND WHEREAS on March 2, 2010, Staff of the Commission issued a Statement of Allegations against the Respondents;

AND WHEREAS Staff served the Respondents with the Notice of Hearing dated March 2, 2010 and Staff's Statement of Allegations dated March 2, 2010. Service by Staff was evidenced by the Affidavit of Service of Joanne Wadden, sworn on March 4, 2010, which was filed with the Commission;

AND WHEREAS on March 5, 2010, counsel for Staff and counsel for IGI and Lushington appeared before the Commission and made submissions;

AND WHEREAS on March 5, 2010, counsel for Staff requested an extension of the Temporary Order as against IGI;

AND WHEREAS on March 5, 2010, counsel for IGI and Lushington consented to the extension of the Temporary Order as against IGI;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that Z2A and Hewitt were represented by counsel and that counsel for Z2A and Hewitt was not opposed to adjourning the hearing to April 12, 2010;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that Staff were preparing disclosure for the Respondents and that Staff anticipated disclosure would be available by April 12, 2010;

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

IT IS ORDERED that, pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against IGI until April 13, 2010; and

IT IS FURTHER ORDERED that the hearing with respect to the Notice of Hearing dated March 2, 2010 and with respect to the Temporary Order is adjourned to April 12, 2010, at 9:45 a.m.

DATED at Toronto this 8th day of March, 2010.

"David L. Knight"

2.2.6 Uranium308 Resources Inc. et al. – s. 127

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

AND

IN THE MATTER OF
URANIUM308 RESOURCES INC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, AND SHAFI KHAN

ORDER
(Section 127)

WHEREAS on February 20, 2009, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering: that all trading in securities by Uranium308 Resources Inc. ("U308 Inc.") shall cease and that all trading in Uranium308 Resources Inc. securities shall cease; that all trading in securities by Uranium308 Resources Plc. ("U308 Plc.") shall cease and that all trading in Uranium308 Resources Plc. securities shall cease; that all trading in securities by Innovative Gifting Inc. ("IGI") shall cease; and, that Michael Friedman ("Friedman"), Peter Robinson ("Robinson"), George Schwartz ("Schwartz"), and Alan Marsh Shuman ("Shuman") cease trading in all securities (the "Temporary Order");

AND WHEREAS, on February 20, 2009, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on February 23, 2009 the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on March 6, 2009 at 10:00 a.m.;

AND WHEREAS the Notice of Hearing set out that the Hearing was to consider, *inter alia*, whether, in the opinion of the Commission, it was in the public interest, pursuant to subsections 127 (7) and (8) of the Act, to extend the Temporary Order until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

AND WHEREAS on March 6, July 10, November 30, 2009 and on February 3, 2010, hearings were held before the Commission and the Commission ordered that the Temporary Order be extended;

AND WHEREAS on February 3, 2010, the Commission ordered that the Temporary Order be extended until March 8, 2010 and the hearing with respect to the matter be adjourned to March 5, 2010;

AND WHEREAS on March 2, 2010, the Commission issued a Notice of Hearing to consider, *inter*

alia, whether to make orders, pursuant to sections 37, 127, and 127.1, against U308 Inc., Friedman, Schwartz, Robinson and Shafi Khan ("Khan") (collectively the "Respondents");

AND WHEREAS on March 2, 2010, Staff of the Commission issued a Statement of Allegations against the Respondents;

AND WHEREAS Staff served the Respondents with the Notice of Hearing dated March 2, 2010 and Staff's Statement of Allegations dated March 2, 2010. Service by Staff was evidenced by the Affidavit of Service of Joanne Wadden, sworn on March 4, 2010, which was filed with the Commission;

AND WHEREAS on March 5, 2010, Staff, counsel for Robinson, counsel for U308 Inc. and Friedman, and Khan appeared before the Commission and made submissions;

AND WHEREAS on March 5, 2010, counsel for Staff requested an extension of the Temporary Order against U308 Inc., Friedman, Schwartz, Robinson and U308 Plc.;

AND WHEREAS on March 5, 2010, counsel for Staff also requested the extension of the Temporary Order against IGI. This request was dealt with in a separate order issued by the Commission;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that counsel for U308 Inc. and Friedman consented to the extension of the Temporary Order. Counsel for Robinson took no position on Staff's request for the extension of the Temporary Order against the Respondents;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that Uranium308 Resources Plc. consented to the extension of the Temporary Order against Uranium308 Resources Plc.;

AND WHEREAS on March 5, 2010, Schwartz did not appear before the Commission despite being served with the Commission's Notice of Hearing dated March 2, 2010 and Staff's Statement of Allegations dated March 2, 2010;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that Staff were not seeking to extend the Temporary Order against Shuman;

AND WHEREAS on March 5, 2010, counsel for Staff advised the Commission that Staff were preparing disclosure for the Respondents and that Staff anticipated disclosure would be available by April 12, 2010;

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

IT IS ORDERED that, pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc. until April 13, 2010; and

IT IS FURTHER ORDERED that the hearing with respect to the Notice of Hearing dated March 2, 2010 and with respect to the Temporary Order is adjourned to April 12, 2010, at 9:30 a.m.

DATED at Toronto this 8th day of March, 2010.

"David L. Knight"

2.2.7 Executive Director's Designation and Determination in the Matter of the Assignment of Certain Powers and Duties of the Ontario Securities Commission

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

AND

IN THE MATTER OF
THE DESIGNATION BY THE
EXECUTIVE DIRECTOR OF POSITIONS FOR
THE PURPOSES OF THE DEFINITION OF
DIRECTOR IN THE ACT

AND

IN THE MATTER OF
THE ASSIGNMENT OF CERTAIN POWERS
AND DUTIES OF THE
ONTARIO SECURITIES COMMISSION

EXECUTIVE DIRECTOR'S DESIGNATION
AND DETERMINATION

WHEREAS:

A. On March 16, 2007, the Commission issued an amended and restated Assignment (the **March 2007 Assignment**) pursuant to subsection 6(3) of the Act, assigning certain of its powers and duties under the Act to each "Director" as that term is defined in subsection 1(1) of the Act, acting individually.

B. On February 2, 2010, the Commission revoked the March 2007 Assignment and replaced it with an amended and restated assignment (the **February 2010 Assignment**).

C. Under subsection 1(1) of the Act, "Director" means the Executive Director of the Commission, a Director or Deputy Director of the Commission, or a person employed by the Commission in a position designated by the Executive Director.

D. The February 2010 Assignment provides that the Executive Director of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties assigned by the Commission in paragraph 2 of the Assignment, each of which powers may also be exercised and performed by the Executive Director alone.

E. On August 16, 2007, the Executive Director issued a designation and determination (the **August 2007 Designation**) whereby the Executive Director, among other things: (i) revoked the previous existing designation and determination, (ii) designated certain positions, whether or not in an acting capacity, for the purposes of the definition of "Director" contained in subsection 1(1) of the Act, and (iii) determined that, in addition to the Executive Director acting alone, each Director (other than certain specified Directors) may exercise the powers and perform the duties assigned by the Commission to Directors in the March 2007 Assignment an any other successor assignment in effect from time to time, until otherwise determined by the Executive Director.

F. The Compliance and Registrant Regulation Branch of the Commission is implementing a new organizational structure (the **Reorganized CRR**) with four multi-functional, integrated teams reporting to two new Deputy Director positions.

G. Under the Reorganized CRR, the positions of Assistant Manager, Registrant Regulation will not be continued and many activities which were previously the responsibility of these Assistant Managers will become the responsibility of the new positions of Senior Registration Supervisor or Registration Supervisor for three of the four teams.

NOW THEREFORE, the Executive Director:

1. revokes the August 2007 Designation;

2. designates each of the following positions, whether or not in an acting capacity, for the purposes of the definition of "Director" contained in subsection 1(1) of the Act:

   (a) each Manager and Assistant Manager in the Corporate Finance Branch of the Commission,

   (b) each Manager, Assistant Manager, Senior Registration Supervisor and Registration Supervisor in the Compliance and Registrant Regulation Branch of the Commission,

   (c) each Manager and Assistant Manager in the Market Regulation Branch of the Commission,

   (d) each Manager and Assistant Manager in the Enforcement Branch of the Commission,

   (e) each Manager and Assistant Manager in the Investment Funds Branch of the Commission,

   (f) the Chief Accountant of the Commission, and

   (g) the General Counsel of the Commission;

3. designates the Supervisor-Insider Reporting Group and each Senior Legal Counsel and Senior Accountant in the Corporate Finance Branch of the Commission for the purposes of the definition of "Director" contained in subsection 1(1) of the Act, but solely for the purpose of granting exemptions from fees for the late filing of insider reports on Form 55-102F2 under Commission Rule 13-502 Fees; and

4. determines that, in addition to the Executive Director acting alone, each Director, other than the Supervisor-Insider Reporting Group, and each Senior Legal Counsel and Senior Accountant in the Corporate Finance Branch of the Commission, may exercise the powers and perform the duties assigned by the Commission to Directors in the February 2010 Assignment and any successor assignment in effect from time to time, until otherwise determined by the Executive Director.

DATED AT TORONTO this 4th day of March, 2010.

"Peggy Dowdall-Logie"
Executive Director

2.2.8 African Barrick Gold Limited

Headnote

Subsection 74(1) – Application for exemption from prospectus requirement in connection with first trade of shares of issuer through the London Stock Exchange or to person or company outside of Canada – issuer not a reporting issuer in any jurisdiction in Canada – conditions of the exemption in section 2.14 of National Instrument 45-102 Resale of Securities not satisfied as indirect parent of issuer, holding up to 75% of issuers issued and outstanding shares, is a resident of Canada – relief restricted to securities acquired under private placement in Canada to be conducted concurrent with an initial public offering of the issuer in the United Kingdom – relief granted subject to conditions, including condition that, excluding shares held by the issuer's indirect parent, residents of Canada do not hold more than 10 percent of the issued and outstanding shares or represent more than 10 percent of the number of securityholders and condition that the first trade be made through the London Stock Exchange or to a person or company outside of Canada.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74(1).
National Instrument 45-102 Resale of Securities, s. 2.14.

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

AND

IN THE MATTER OF
AFRICAN BARRICK GOLD LIMITED
(the "Applicant")

ORDER

Background

The Ontario Securities Commission (the "**Commission**") has received an application from the Applicant for an exemption under Section 74(1) of the *Securities Act* (Ontario) (the "**Act**") from the prospectus requirement (the "**Prospectus Requirement**") set forth in Section 53 of the Act in connection with the first trades of ordinary shares of the Applicant to be sold to investors (the "**Ontario Investors**") resident in the province of Ontario (the "**Jurisdiction**").

Interpretation

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

Representations

This order is based on the following facts represented by the Applicant:

1. The Applicant was incorporated and registered in England and Wales on January 12, 2010, under the *Companies Act 2006* as a private limited company with the name BUK Topco Limited. On February 17, 2010, the Applicant was renamed African Barrick Gold Limited. The Applicant will ultimately be re-registered as a public limited company with the name African Barrick Gold plc.

2. The registered office of the Applicant is c/o Shearman & Sterling (London) LLP, Broadgate West, 9 Appold Street, London, EC2A 2AP. The principal place of business of the Applicant is its registered office.

3. The Applicant was incorporated with share capital of £1 divided into 1 ordinary share of £1 (an "**Ordinary Share**"), which was issued on incorporation to Barrick Gold Corporation ("**BGC**").

4. While the exact number of Ordinary Shares to be issued has not yet been determined, the Applicant proposes to conduct an initial public offering (the "**Offering**") of Ordinary Shares.

5. The Applicant was formed to consolidate the African gold mines, projects and exploration properties of BGC and its affiliates (the "**Reorganization**") and to become the public vehicle for the Offering.

6. The Applicant is not a reporting issuer or its equivalent in any province or territory of Canada and its Ordinary Shares are not listed or posted for trading on any stock exchange in Canada or elsewhere. The Applicant has no present intention of listing its Ordinary Shares on any Canadian stock exchange or of becoming a reporting issuer under any Canadian securities legislation.

7. BGC is a corporation existing under the *Business Corporations Act* (Ontario). The principal office of BGC is located in Toronto, Ontario. BGC is the leading gold mining company in the world in terms of production, reserves and market capitalization and has operating mines or projects in Canada, the United States, Dominican Republic, Australia, Papua New Guinea, Peru, Chile, Argentina, Pakistan, Russia, South Africa and Tanzania. As at February 12, 2010, BGC had a market capitalization in excess of Cdn.$38 billion.

8. BGC is a reporting issuer or the equivalent under the securities legislation of each province and territory of Canada. The Applicant is advised that, to the knowledge of BGC, BGC is not in default of Canadian securities legislation.

9. In connection with the Reorganization, BGC and one or more of its affiliates will obtain Ordinary Shares as consideration for the transfer of their African holdings to the Applicant. Prior to the Offering and in connection with the

Reorganization, BGC will transfer the Ordinary Shares of the Applicant it has acquired to one or more of its affiliates. Any affiliate of BGC (collectively, the "**Foreign Affiliates**") that will own Ordinary Shares of the Applicant will not be incorporated or exist under any federal or provincial statute of Canada.

10. Immediately following the Offering, the Ordinary Shares will be publicly traded on the London Stock Exchange (the "**LSE**"). The Applicant also intends to seek a future listing of its Ordinary Shares on the Dar es Salaam Stock Exchange in Tanzania.

11. As part of the Offering, the Applicant intends to offer Ordinary Shares (the "**Canadian Offering Shares**") to Ontario Investors in reliance upon the accredited investor exemption from the prospectus and registration requirements found in National Instrument 45-106 – *Prospectus and Registration Exemptions* ("**NI 45-106**"). The Applicant also intends to offer Ordinary Shares to investors in the United States and other international jurisdictions on a private placement basis in accordance with applicable laws.

12. On the date that the Canadian Offering Shares are distributed to the Ontario Investors (the "**Distribution Date**"), after giving effect to the Offering, the Canadian Offering Shares will not constitute more than 10% of the Public Float (defined as the issued and outstanding Ordinary Shares of the Applicant on the Distribution Date after giving effect to the Offering and deducting the Ordinary Shares owned directly or indirectly by BGC and the Foreign Affiliates).

13. Following completion of the Offering, BGC will indirectly, through the Foreign Affiliates, own not more than 75% of the outstanding Ordinary Shares, and potentially less than 75% depending on the ultimate size of the Offering and whether the over-allotment option is exercised. For greater certainty, the Ordinary Shares held indirectly by BGC are not Canadian Offering Shares.

14. Pursuant to an agreement to be entered into with the underwriters involved in the Offering, the Ordinary Shares held by the Foreign Affiliates following the Offering will be subject to a lock-up of at least 180 days (the "**Lock-Up**").

15. In addition to the Lock-Up, under UK law, except in limited circumstances, the Foreign Affiliates may only dispose of their Ordinary Shares with a prospectus. These limited circumstances include sales to "qualified investors" including institutional buyers, private placements involving fewer than 100 persons (other than "qualified investors") per EEA State, sales where the consideration payable per investor is at least €50,000 and sales pursuant to offers with a total consideration of less than €100,000 over any 12 month period. As a result of these contractual and legal restrictions, the block of Ordinary Shares held by the Foreign Affiliates is illiquid and not readily tradeable.

16. For so long as a Foreign Affiliate is a "control person" as such term is defined in the Act, any directed trade of Ordinary Shares to a purchaser in Canada by such Foreign Affiliate (other than trades over the LSE or any other foreign exchange) will be a "distribution" as defined in the Act.

17. Upon completion of the Offering, the Canadian Offering Shares will constitute approximately 2.5% of the issued and outstanding Ordinary Shares, though this number could be higher depending on the ultimate size of the Offering. When aggregated with the Ordinary Shares indirectly owned by BGC through the Foreign Affiliates, the total number of Ordinary Shares held directly or indirectly by resident Canadians will exceed 10% of the issued and outstanding Ordinary Shares.

18. On the Distribution Date, after giving effect to the Offering, residents of Canada will not represent in number more than 10% of the total number of owners, directly or indirectly, of Ordinary Shares of the Applicant.

19. In the absence of an order granting relief, the first trade in Canadian Offering Shares by any of the Ontario Investors will be deemed to be a distribution pursuant to National Instrument 45-102 – *Resale of Securities* ("**NI 45-102**").

20. The exemption provided in Section 2.14 of NI 45-102 will not be available to the Ontario Investors with respect to a first trade of the Canadian Offering Shares on the LSE because at the distribution date of the Canadian Offering Shares, BGC, a resident of Canada, will indirectly own more than 10% of the issued and outstanding Ordinary Shares.

21. No market for the Ordinary Shares is expected to develop in Canada as a result of or following the Offering. The Ordinary Shares will be offered primarily outside of Canada with no more than 10% of the Public Float being held by the Ontario Investors after giving effect to the Offering. The market for the Ordinary Shares will be outside of Canada and primarily in the UK as a result of the LSE listing. Any public resale of Ordinary Shares by the Ontario Investors or the Foreign Affiliates is expected to be effected through the facilities of the LSE or, in the case of the Foreign Affiliates, on any other exchanges or markets outside of Canada on which the Ordinary Shares may be quoted or listed at the time that the trade occurs.

22. The Applicant will be subject to reporting and disclosure obligations under applicable UK law

and the rules of the LSE. Holders of Canadian Offering Shares will receive copies of all shareholder materials provided to all other holders of Ordinary Shares, in accordance with applicable law, and will also have general access to such materials on the Applicant's website.

23. Investors acquiring the Ordinary Shares pursuant to the Offering in jurisdictions outside of Canada, including investors acquiring Ordinary Shares on a private placement basis in the United States and other international jurisdictions, will be permitted to dispose of those Ordinary Shares through the LSE.

24. Failure to obtain the relief requested herein will adversely impact the marketing of the Ordinary Shares to Ontario Investors and may result in the withdrawal of the Canadian private placement. It is expected that very few Ontario Investors will participate in the Offering absent an ability to freely resell the Ordinary Shares on the LSE. If the Offering is made available in the Jurisdiction and the relief is not granted, the Ontario Investors who choose to participate in the Offering will be at a disadvantage relative to investors in other jurisdictions.

Order

The Commission is satisfied that this order meets the test set out in Section 74(1) of the Act.

The order of the Commission under Section 74(1) of the Act is that the first trades of the Canadian Offering Shares by Ontario Investors are exempt from the Prospectus Requirement provided that:

(a) on the Distribution Date, after giving effect to the Offering, the Canadian Offering Shares will not constitute more than 10% of the Public Float;

(b) on the Distribution Date, after giving effect to the Offering, residents of Canada will not represent in number more than 10% of the total number of owners, directly or indirectly, of Ordinary Shares of the Applicant;

(c) the Applicant

(i) is not a reporting issuer in any jurisdiction of Canada at the Distribution Date, or

(ii) is not a reporting issuer in any jurisdiction of Canada at the date of such first trades, and

(d) such first trades are executed through the facilities of the LSE or to a person or company outside of Canada.

DATED at Toronto on this 9th day of March, 2010.

“James Turner”

“Carol S. Perry”

2.2.9 Global Energy Group, Ltd. and New Gold Limited Partnerships – s. 127(8)

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

AND

IN THE MATTER OF
GLOBAL ENERGY GROUP, LTD. AND
NEW GOLD LIMITED PARTNERSHIPS

ORDER
(Subsection 127(8))

WHEREAS on July 10, 2008, the Ontario Securities Commission (the "Commission") issued a Temporary Order, pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), that all trading by Global Energy Group, Ltd. ("Global Energy") and the New Gold Limited Partnerships (the "New Gold Partnerships") and their officers, directors, employees and/or agents in securities of the New Gold Partnerships shall cease (the "Temporary Order");

AND WHEREAS on July 10, 2008, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on July 15, 2008, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, such hearing to be held on July 23, 2008 at 11:00 a.m.;

AND WHEREAS the Notice of Hearing sets out that the hearing is to consider, *inter alia*, whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127(7) and (8) of the Act, to extend the Temporary Order until such time as considered necessary by the Commission;

AND WHEREAS a hearing was held on July 23, 2008 at 11:00 a.m. where Staff and counsel for Global Energy appeared but no counsel appeared for the New Gold Partnerships;

AND WHEREAS on July 23, 2008, the Temporary Order was continued until August 6, 2008 and the hearing in this matter was adjourned until August 5, 2008 at 3:00 p.m. on consent of Staff and counsel for Global Energy;

AND WHEREAS a hearing was held on August 5, 2008 at 3:00 p.m. where Staff and counsel for Global Energy appeared but no counsel appeared for the New Gold Partnerships;

AND WHEREAS on August 5, 2008, the Temporary Order was continued until December 4, 2008 and the hearing in this matter was adjourned until December 3, 2008 at 10:00 a.m. on consent of Staff and counsel for Global Energy;

AND WHEREAS on December 3, 2008, on the basis of the record for the written hearing and on consent of Staff and counsel for Global Energy, a Panel of the Commission ordered that the Temporary Order be extended until June 11, 2009 and that the hearing in this matter be adjourned to June 10, 2009, at 10:00 a.m.;

AND WHEREAS on June 10, 2009, Staff advised the Commission that Victor Tsatskin, an agent of Global Energy, would not be attending the hearing and was not opposed to Staff's request for the extension of the Temporary Order and no counsel has communicated with Staff on behalf of New Gold Partnerships;

AND WHEREAS on June 10, 2009, on hearing the submissions of Staff, a Panel of the Commission ordered that the Temporary Order be extended until October 9, 2009 and that the hearing in this matter be adjourned to October 8, 2009, at 10:00 a.m.;

AND WHEREAS on October 8, 2009, on hearing the submissions of Staff, a Panel of the Commission ordered that the Temporary Order be extended until March 11, 2010 and that the hearing in this matter be adjourned to March 10, 2010, at 10:00 a.m.;

AND WHEREAS, prior to the appearance before a Panel of the Commission on March 10, 2010, Staff communicated with Victor Tsatskin, an agent of Global Energy, advising him of this appearance and Victor Tsatskin advised Staff that he is not opposed to an extension of the Temporary Order until July 12, 2010;

AND WHEREAS Staff advise that no counsel or individual has communicated with Staff on behalf of New Gold Partnerships;

AND WHEREAS pursuant to subsection 127(8) satisfactory information has not been provided to the Commission by any of the Respondents;

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

IT IS HEREBY ORDERED, pursuant to subsection 127(8) of the Act, that the Temporary Order is extended to July 12, 2010 and that the hearing in this matter is adjourned to July 9, 2010, at 11:30 a.m. or on such other date as provided by the Secretary's office and agreed to by the parties.

DATED at Toronto this 10th day of March, 2010.

"Carol S. Perry"

2.2.10 Kermode Exploration Ltd. – s. 144

Headnote

Application by an issuer for a 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 am., ss. 127, 144.

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

AND

IN THE MATTER OF
KERMODE EXPLORATION LTD.
(the "Applicant")

ORDER
(Section 144)

WHEREAS the securities of the Applicant are subject to a temporary cease trade order made by the Director dated May 6, 2008 pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further order made by the Director dated May 16, 2008 pursuant to paragraph 2 of subsection 127(1) of the Act (collectively, the "Cease Trade Order"), ordering that trading in the securities of the Applicant cease until the Cease Trade Order is revoked;

AND WHEREAS the Applicant has made an application to the Ontario Securities Commission (the "**Commission**") pursuant to subsection 144(1) of the Act (the "**Application**") for an order revoking the Cease Trade Order;

AND WHEREAS the Applicant has represented to the Commission as follows:

1. The Applicant, under the name Lease-Rite Corporation Inc., was incorporated pursuant to the *Business Corporations Act* (Ontario) on November 23, 1972. The Issuer filed Articles of Amendment, dated June 6, 2006, whereby it changed its name to Kermode Exploration Ltd.

2. The Issuer's registered and head office is located at 15 Toronto Street, Suite 600, Toronto, Ontario M5C 2E3.

3. The Issuer is a reporting issuer under the Act. The Issuer is not a reporting issuer or equivalent in any other jurisdiction in Canada.

4. The Issuer has no securities, including debt securities, that are currently listed or quoted on any exchange or market in Canada or elsewhere.

5. The Applicant's authorized capital consists of an unlimited number of common shares and an unlimited number of preference shares, of which 9,360,080 common shares and nil preference shares are issued and outstanding as fully paid and non-assessable shares.

6. The Cease Trade Order was issued as a result of the failure of the Applicant to file its audited annual financial statements and management's discussion and analysis relating to the audited financial statements for the year ended December 31, 2007, on or before the filing deadline of April 29, 2008, as required by section 4.2 of National Instrument 51-102 – *Continuous Disclosure Obligations*.

7. The Applicant's failure to file financial statements was a result of financial distress.

8. On December 8, 2009, the Applicant filed the following disclosure documents with the Commission via SEDAR:

   (a) Audited Annual Financial Statements for the years ended December 31, 2007 and December 31, 2008;

   (b) Management's Discussion and Analysis for the annual periods referred to in subparagraph (a) above;

   (c) Unaudited Interim Financial Statements for the three months ended March 31, 2008, the six months ended June 30, 2008 and the nine months ended September 30, 2008;

   (d) Management's Discussion and Analysis for the interim periods referred to in subparagraph (c) above;

   (e) Unaudited Interim Financial Statements for the three months ended March 31, 2009, the six months ended June 30, 2009 and the nine months ended September 30, 2009; and

   (f) Management's Discussion and Analysis for the interim periods referred to in subparagraph (e) above;

   (g) Certificates required by National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings* signed by both the Chief Executive Officer and a director acting in the capacity of the Chief Financial Officer certifying the annual filings for each of

the years ended December 31, 2007 and December 31, 2008 and the interim filings for the three months ended March 31, 2008, the six months ended June 30, 2008, the nine months ended September 30, 2008, the three months ended March 31, 2009, the six months ended June 30, 2009; and the nine months ended September 30, 2009.

9. On February 26, 2010, the Applicant re-filed its management's discussion and analysis and certificates for the interim period ended September 30, 2009. The management's discussion and analysis was re-filed with additional disclosure relating to liquidity and capital resources, related party transactions and international financial reporting standards.

10. The Applicant has filed an undertaking with the Commission that it will hold an annual meeting of shareholders within three months of the date of this Order.

11. Other than the Cease Trade Order, the Applicant has not previously been subject to a cease trade order by the Commission.

12. The Applicant is up-to-date will all of its other continuous disclosure obligations and has paid outstanding participating fees, filing fees and late fees associated with those obligations owing to the Commission in connection with the disclosure documents referred to in paragraph 8 above and has filed all of the forms associated with such payments.

13. The Issuer is not, to its knowledge, in default of any requirements of the Cease Trade Order, the Act or the rules and regulations made pursuant thereto, including NI 43-101 – *Standards of Disclosure for Mineral Projects*.

14. The Applicant's SEDAR and SEDI profiles are up-to-date.

15. The Applicant is not considering, nor is it involved in any discussions relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

16. Upon the issuance of this Order, the Issuer will issue a press release announcing the revocation of the Cease Trade Order of the Issuer. The Issuer will concurrently file the press release and material change report on SEDAR.

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

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

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

DATED at Toronto, Ontario on this 3rd day of March, 2010.

"Michael Brown"
Assistant Manager, Corporate Finance
Ontario Securities Commission

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Paul Iannicca

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

AND

IN THE MATTER OF
PAUL IANNICCA

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE SECURITIES ACT

SETTLEMENT HEARING RE: PAUL IANNICCA

HEARING:	Wednesday, February 10, 2010		
PANEL:	David L. Knight, FCA	–	Chair of the Panel
APPEARANCES:	Hugh Craig	–	for Staff of the Ontario Securities Commission
	Michael Magonet	–	for Paul Iannicca

ORAL RULING AND REASONS

The following text has been prepared for the purpose of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the Chair of the Panel for the purpose of providing a public record of the decision.

Chair:

[1] This was a hearing under sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, (the "Act") for the Ontario Securities Commission (the "Commission") to consider whether it is in the public interest to approve a proposed Settlement Agreement between Staff of the Commission ("Staff") and the respondent Paul Iannicca ("Mr. Iannicca").

[2] I have considered the allegations of Staff regarding Mr. Iannicca, the terms of the Settlement Agreement reached with Staff, the submissions of Staff and Mr. Magonet on behalf of Mr. Iannicca.

[3] I am influenced by the admission by Mr. Iannicca that he engaged in serious misconduct. I am also influenced by the fact that Mr. Iannicca cooperated with Staff to enter into a Settlement Agreement and this eliminated the need for a full-blown hearing with all the related costs.

[4] I note that Mr. Iannicca invested some of his own funds in Gold-Quest, which is an indication that he believed that the investment was a legitimate one. I am also influenced by the fact that as soon as Mr. Iannicca learned that Gold-Quest ended up in receivership, he ceased all activity related to Gold-Quest.

[5] Mr. Iannicca received approximately $101,000 in commissions from Gold-Quest, and he compensated four investors for their losses in the amount of approximately $40,000. I note that Mr. Iannicca paid income taxes on the commissions received and those taxes are apparently not recoverable.

[6] One of the terms of the Settlement Agreement is that Mr. Iannicca will disgorge the remainder of his commissions amounting to approximately $61,000. After disgorging this sum, Mr. Iannicca will also be out of pocket for his loss on his own investment with Gold-Quest, the taxes he paid with respect to commissions of $101,000 and his legal fees and whatever other costs he incurred in this matter. And, of course, there's also the loss of income he would have earned, which has gone elsewhere as a result of the damage to his reputation in this matter.

[7] As Mr. Craig has pointed out, the Settlement Agreement was negotiated between the parties and the parties arrived at what they considered to be acceptable terms. It is a well established principle that the role of a Commission Panel considering a settlement agreement is not to substitute its judgment for what is proposed in the settlement agreement, but rather to consider whether the settlement is within the acceptable parameters (*Re Sohan Singh Koonar et al.* (2002), 25 O.S.C.B. 2691). And I have concluded that it is.

[8] Therefore, I approve the Settlement Agreement which contains the following sanctions: (1) Mr. Iannicca is prohibited for ten years from becoming or acting as a registrant; (2) any exemptions contained in Ontario securities law do not apply to Mr. Iannicca for ten years; and (3) Mr. Iannicca is to disgorge to the Commission the amount of $60,851.84 to be allocated under section 3.4(2)(b) of the Act to or for the benefit of third parties.

Approved by the Chair of the Panel on March 3, 2010.

“David L. Knight”

3.1.2 Norshield Asset Management (Canada) Ltd. et al. – s. 127

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

AND

IN THE MATTER OF
NORSHIELD ASSET MANAGEMENT
(CANADA) LTD.,OLYMPUS UNITED GROUP INC.,
JOHN XANTHOUDAKIS,
DALE SMITH AND PETER KEFALAS

REASONS AND DECISION
(Section 127 of the *Securities Act*)

Hearing:	October 27, 28, 29, 30, 31, 2008 November 3, 4, 5, 6, 10, 11, 12, 13, 17, 2008 December 8, 11, 2008 May 5, 6, 2009		
Decision:	March 8, 2010		
Panel:	Wendell S. Wigle, Q.C.	–	Commissioner (Chair of the Panel)
	David L. Knight, F.C.A.	–	Commissioner
	Margot C. Howard, CFA	–	Commissioner
Counsel:	Melissa MacKewn Pamela Foy	–	for Staff of the Ontario Securities Commission
	Alistair Crawley	–	for John Xanthoudakis and Dale Smith
	Éric Cadi	–	for Peter Kefalas

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REASONS AND DECISION

I. OVERVIEW

A. Introduction

[1] This was a hearing on the merits before the Ontario Securities Commission (the "Commission") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider whether Norshield Asset Management (Canada) Ltd. ("NAM"), Olympus United Group Inc. ("Olympus United Group"), John Xanthoudakis ("Xanthoudakis"), Dale Smith ("Smith") and Peter Kefalas ("Kefalas") (collectively, the "Respondents") breached Ontario securities laws and acted contrary to the public interest.

[2] This matter (the "Proceeding") arose out of a Notice of Hearing issued by the Commission on October 11, 2006 in relation to a Statement of Allegations issued by Staff of the Commission ("Staff") on the same day. On October 20, 2006, the then existing Temporary Cease Trade Order was extended until the completion of the Proceeding. After a series of adjournments due to issues concerning disclosure, the hearing on the merits began on October 27, 2008.

[3] Staff submit that Xanthoudakis and Smith operated an investment structure that resulted in the loss of most of the $159 million invested by 1,900 Canadian retail investors.

[4] Staff allege that the Respondents breached Ontario securities laws by failing to communicate the true nature of the investment structure and to account for the funds invested.

[5] The Respondents acknowledge that investors lost money as a result of the failure of the investment structure. However, they claim that this failure is not the result of any intentional and/or wrongful conduct on their part.

[6] Staff submit that the funds under the direction of NAM, Olympus United Group, Xanthoudakis and Smith were managed improperly. They submit that proper records were not kept, that independent and reliable valuations were not made, and that investors were not informed of the nature of their investments. The allegations are set out in paragraph 37 of these Reasons and Decision.

[7] It is the position of Xanthoudakis and Smith that the investment platform they managed operated in a manner consistent with what was represented to investors and to the public. Xanthoudakis and Smith submit that the records of NAM, Olympus United Group and the other entities that they were responsible for were properly maintained, and that the evidentiary record is incomplete with respect to the state of record-keeping below the levels they were responsible for in the investment structure.

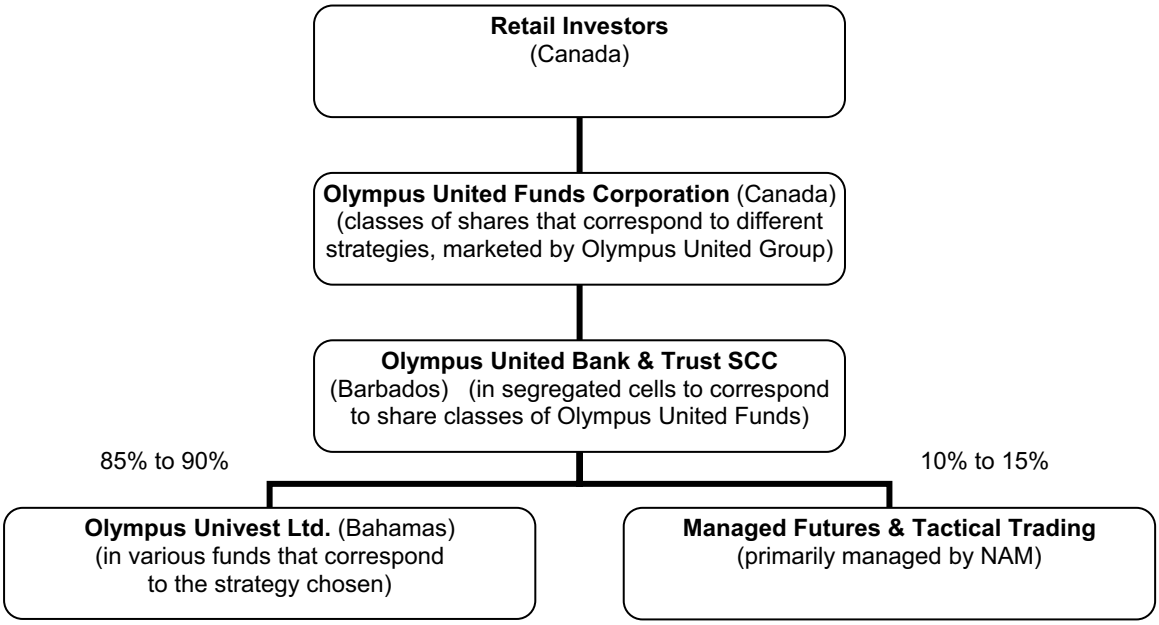
[8] We find that the Respondents were in breach of Ontario securities laws and acted contrary to the public interest, as discussed below.

B. Background

1. The Norshield Investment Structure

[9] The Norshield Investment Structure is a complex corporate structure that stretches across multiple jurisdictions. It was designed to raise and manage retail and institutional funds (the "Norshield Investment Structure"). Retail investors were generally issued shares at the Olympus United Funds Corporation ("Olympus United Funds") level and institutional investments came in at the Olympus Univest Ltd. ("Olympus Univest") level of the structure. Retail investors were issued shares in Olympus United Funds pursuant to a series of offering memoranda. Shares of Olympus United Funds were marketed by Olympus United Group. NAM provided portfolio management services to Olympus United Funds. For a somewhat more detailed description of the companies involved in the Norshield Investment Structure, see Appendix A attached to these Reasons and Decision.

[10] Throughout the hearing, we heard from Staff that the nature of the investment that retail investors thought they were getting when they purchased shares of Olympus United Funds was dramatically different from what they actually received. At its simplest, retail investors thought that they were investing in funds which provided them with access to a portfolio of hedge fund managers which they would have had difficulty accessing on their own due to the minimum investment requirement with each hedge fund manager. While a straightforward concept, the execution of this strategy was to be achieved through a number of different corporate entities in various jurisdictions, as follows:



[11] Retail investor funds were to flow from Olympus United Funds into "segregated asset cells" of Olympus United Bank and Trust SCC ("Olympus Bank"), a licensed offshore bank based in the Barbados. Under Barbados company law, segregated asset cells are used to protect assets from creditors with respect to obligations arising from transactions involving other segregated assets and non-cellular assets. Investing through Olympus Bank was meant to provide tax advantages to Canadian retail investors.

[12] According to the evidence presented at the hearing, 10 to 15 percent of the funds held by Olympus Bank were invested in an "in-house overlay program", which was involved in "managed futures" and "tactical trading". The Olympus United Funds offering memorandum dated June 21, 2004 described "tactical trading" as a "market timing system that invests in futures and commodity contracts, equities, exchange-traded funds, fixed-income instruments, swaps and other derivatives with the objective of achieving high risk-adjusted returns that have a low correlation with traditional market indices". The remaining 85 to 90 percent of retail investor funds went to share classes of Olympus Univest.

[13] At the Olympus Univest level, additional funds entered the Norshield Investment Structure from institutional and individual investors who received non-voting preference shares in Olympus Univest. At the Olympus Univest level, investments from retail and institutional investors were to be directed into various investment funds, corresponding to investors' chosen strategies.

[14] It is Staff's submission that what actually occurred was that funds raised from retail investors were not substantially, directly or indirectly, invested in a portfolio of hedge fund managers. Instead, funds from Olympus Univest were invested in Mosaic Composite (U.S.) Inc. ("Mosaic Composite"), a corporation with share classes that corresponded to each of the nine Olympus Univest investment funds. Mosaic Composite was originally incorporated and domiciled in the Bahamas and subsequently domiciled in the United States.

[15] According to a document prepared by Smith and given to RSM Richter Inc. (appointed as Receiver of NAM in June 2005), Olympus Univest and Mosaic Composite had an investment agreement. Pursuant to this agreement, there was apparently a notional separation of Mosaic Composite assets into two categories, "hedged assets", for the exclusive benefit of Olympus Univest shareholders, and "non-hedged assets", for the exclusive benefit of Mosaic Composite.

[16] The hedged assets included an option from the Royal Bank of Canada ("RBC") that increased or decreased in value based on the performance of the underlying hedge fund portfolios (the "SOHO Option").

[17] The SOHO Option was a derivative purchased from RBC with a portion of investors' funds to provide the returns that would otherwise have been achieved if the funds were directly invested in a portfolio of different hedge fund managers (the "reference portfolio").

[18] RSM Richter Inc. ("RSM Richter" or the "Receiver") described the SOHO Option as follows:

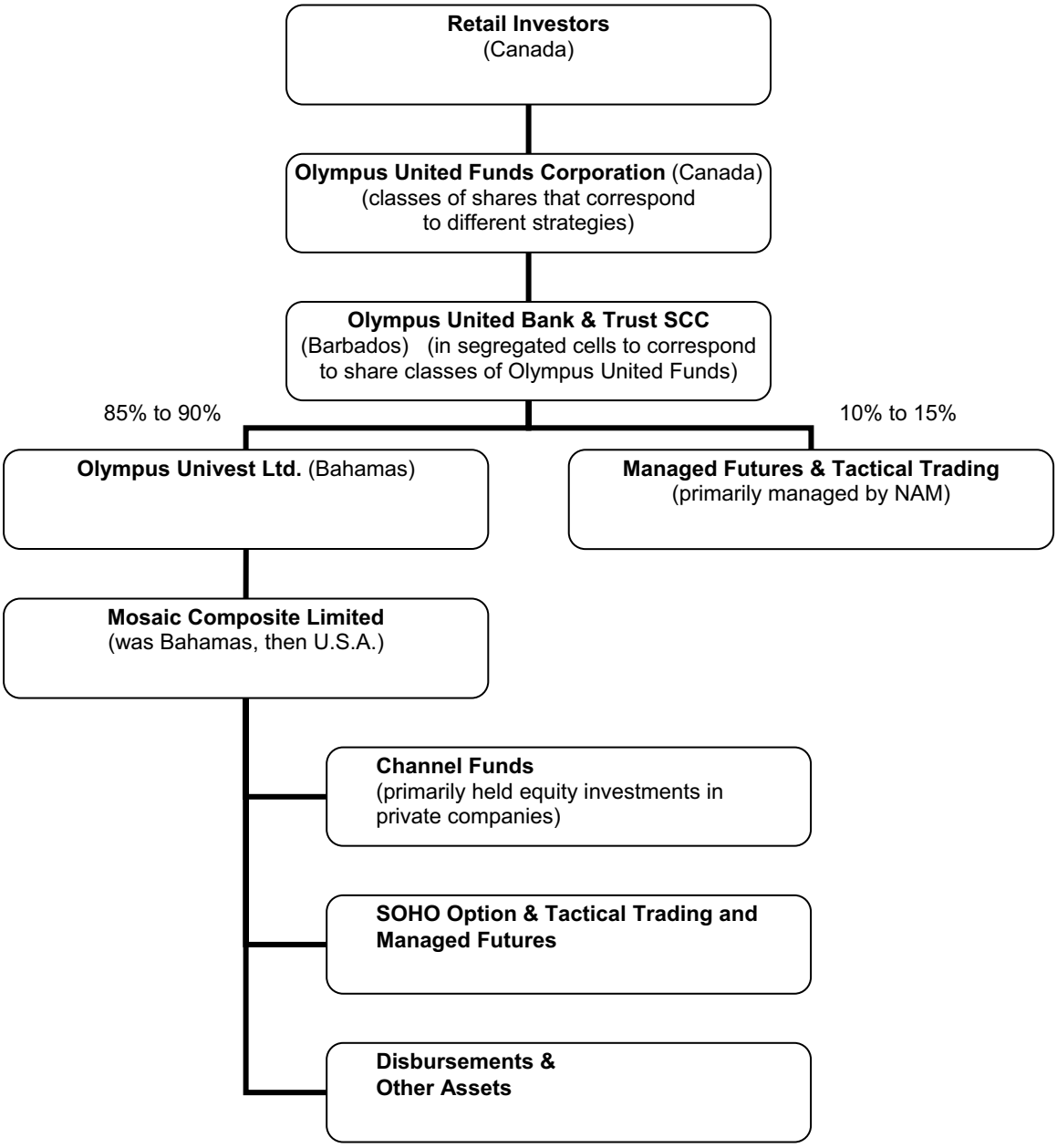
> The RBC SOHO Option is a financial instrument by which [Mosaic Composite] could gain access to a basket of portfolio investments upon payment to the Royal Bank of Canada of [a Premium] which

> was equal to a percentage (between 15% and 25%) of a total value of said basket of portfolio investments ([Exposure]). The difference between the Premium and the Exposure represented the leverage that was inherent in the RBC SOHO Option …
>
> *Exhibit 9* – Report of RSM Richter Inc. in its Capacity as the Court-Appointed Receiver of the Norshield Companies, September 16, 2008 at para. 138.

[19] The bulk of the remainder of the funds were invested in a portfolio of equity investments through four Bahamian funds (collectively, the "Channel Funds"). The Channel Funds consisted of Channel Fixed Income Fund Ltd., Channel F.S. Fund Ltd., Channel Technology Fund Ltd. and Channel Diversified Private Equity Fund Ltd. Any remaining funds were either disbursed or invested in other assets.

[20] Some evidence presented indicates that 10 to 15 percent of the funds at the Olympus Univest level were placed in in-house tactical trading and managed futures accounts, which were managed by entities owned by Xanthoudakis. However, as noted earlier, we also heard evidence that the in-house accounts were funded at the Olympus Bank level. Consequently, it appears that investor funds were placed into the in-house accounts at both the Olympus Bank and Olympus Univest levels.

[21] A simplified organization chart on the next page provides the highlights of Staff's assertions concerning the flow of funds.



[22] Ultimately, the value of the investments in the Channel Funds and the other assets fell far short of the funds invested in them and there is little residual value remaining for retail and institutional investors. The task of surfacing value has been complicated by missing or incomplete records, multiple jurisdictions, competing claims and intercorporate transfers. While Staff have brought several allegations against the Respondents, a number of them revolve around whether Xanthoudakis and Smith were the directing minds and management of the investment structure and whether the net asset values ("NAV"s) used to sell and redeem fund units, including those to Ontario retail investors, were calculated properly.

2. History of Appointment of Monitor and Receiver

[23] On May 13, 2005, the Commission suspended NAM's registration pursuant to subsection 127(1) of the Act because it was operating without a registered advising and compliance officer. The Commission revoked its May 13, 2005 Order on May 16, 2005 when an advising and compliance officer for NAM was registered with the Commission.

[24] On May 20, 2005, NAM's registration was temporarily suspended (the "Temporary Order") pursuant to section 127(1) of the Act, and the Commission ordered that NAM retain a monitor selected by the Commission.

[25] On June 1, 2005, RSM Richter was appointed Monitor. On June 29, 2005, RSM Richter was appointed Receiver of NAM and a number of related entities by the Ontario Superior Court, upon a motion by Staff. The Commission consequently revoked RSM Richter's retainer as Monitor.

[26] RSM Richter also obtained court appointments in other jurisdictions. There were additional liquidators, receivers and monitors appointed in different jurisdictions for recovery of the assets of other companies in the Norshield Investment Structure. In its reports, the Receiver used information obtained from these sources.

3. Procedural History

[27] The hearing on the merits began on October 27, 2008, and ran until May 6, 2009. Fourteen days of evidence were concluded on November 17, 2008, with oral submissions scheduled for December 8, 2009.

[28] On November 23, 2008, the Chair of the Commission made comments aired on the television program "CBC News: Sunday Night" which became the subject of further proceedings before the Commission and the Divisional Court of the Ontario Superior Court of Justice ("Divisional Court").

[29] On November 28, 2008, Xanthoudakis and Smith filed an application for judicial review with the Divisional Court for an order staying the Proceeding. Staff brought a cross-motion to quash this application on the grounds that it was premature.

[30] The Court found that the motion to quash the application was a discretionary remedy which should properly be heard before a full Divisional Court panel. The Divisional Court found that the application for a stay was premature; that it should be heard on the basis of a full record, including a decision. The Divisional Court did not quash the application and did not grant an interim stay of the Proceeding. (*Dale Smith v. Ontario Securities Commission* (5 December 2008), Toronto DC-08-00000589-00JR (Ont. Div. Ct.)).

[31] On December 11, 2008, the Commission heard a motion for an order staying the Proceeding against Xanthoudakis and Smith. The Panel considered whether the Commission lacked jurisdiction because there was a reasonable apprehension of bias on three grounds: systemic or structural bias, institutional impartiality and corporate taint.

[32] In a separate decision released February 3, 2009 (*Re Norshield Asset Management (Canada) Ltd.* (2009), 32 O.S.C.B. 1249) (the "Stay Decision"), the Panel determined that there was no reasonable apprehension of bias on the part of the Commission. Therefore, the motion requesting a stay was dismissed.

[33] Xanthoudakis and Smith appealed the Stay Decision to the Divisional Court. They brought a motion to stay the Proceeding pending the disposition of the appeal. The Court found that the record was now complete with respect to the issue of bias, but found that the balance of convenience did not favour a stay. The Divisional Court determined that it could address the issues in this appeal, along with any others, once the Proceeding is completed before the Commission (*Xanthoudakis et al. v. Ontario Securities Commission* (27 April 2009), Toronto DC-09-00000071-0000 (Ont. Div. Ct.)).

4. Witnesses

[34] During the hearing, we heard evidence from the following witnesses called by Staff:

(i) Adam Patterson ("Patterson") was hired by Xanthoudakis in mid-2001 to work out of the NAM Toronto office in a marketing capacity with institutional clients. In late 2002, Patterson also assumed a compliance role, overseeing wholesalers who were selling Olympus United Funds to the brokerage and retail advisor network.

(ii) Jeffrey Allan Young ("Young") was hired as NAM's Director of Research at the Toronto office in April 2004. His role was to act as a technical resource to Olympus United Funds wholesalers. This involved researching alternative investment strategies, explaining the investment product geared towards retail investors and providing technical support to the wholesalers. He became NAM's Compliance Officer in August 2004.

(iii) Sihai Tran ("Tran") was employed with NAM and related companies from January 1995 until May 2005. He was originally employed with a brokerage arm of the structure as an assistant to a broker and then in a marketing capacity. He was later employed with Norshield Capital Management Corporation ("NCMC"), where he evaluated business plans of companies seeking venture capital investment. In 2000, he started work with NAM, where he was responsible for monitoring the managers chosen for the hedge fund portfolio out of the Montreal office.

(iv) Raymond Massi ("Massi") is a partner at RSM Richter, the Receiver. He has been the lead partner in this matter since RSM Richter was given its initial monitoring mandate. In some cases, Massi's testimony as to the

Receiver's work and findings is based on work and findings of other receivers, liquidators and monitors involved with various companies in the Norshield Investment Structure.

(v) Richard Radu ("Radu") is a senior investigator in the Commission's Enforcement branch who participated in Staff's investigation in this matter.

(vi) Trevor Walz ("Walz") is a Senior Accountant in the Compliance and Regulation branch of the Commission who participated in the on-site reviews of NAM and Olympus United Group.

[35] Kefalas also testified at the hearing.

[36] None of the other Respondents testified or called witnesses.

C. The Allegations

[37] Staff make the following allegations against the Respondents:

(i) NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with clients, contrary to subsections 2.1(1) and 2.1(2) of OSC Rule 31-505 – *Conditions of Registration*;

(ii) NAM and Olympus United Group failed to keep and/or maintain proper books and records in relation to the Norshield Investment Structure in contravention of section 19 of the Act and section 113 of Ontario Regulation 1015 of the Act;

(iii) as a consequence of their positions of seniority and responsibility and in their positions as officers and directors of NAM and/or Olympus United Group, Xanthoudakis and Smith authorized, permitted or acquiesced in the violations of the requirements of Ontario securities laws and breaches of duty described in subparagraphs (i) and (ii) above;

(iv) the Offering Memorandum filed and distributed by Olympus United Group contained misleading or untrue information and/or failed to state facts which were required to be stated, in contravention of clause (b) of subsection 122(1) of the Act;

(v) as a consequence of their positions of seniority and responsibility and in their positions as officers and directors of Olympus United Group, Xanthoudakis and Smith authorized, permitted or acquiesced in the breach of Ontario securities law described in subparagraph (iv) above;

(vi) Xanthoudakis and Smith knowingly made statements and provided evidence and information to Staff that was materially misleading or untrue and/or failed to state facts which were required to be stated in an effort to hide the violations of Ontario securities laws and breaches of duty described in subparagraphs (i) to (v) above, in contravention of clause (a) of subsection 122(1) of the Act; and

(vii) the course of conduct engaged in by Xanthoudakis, Smith and Kefalas compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.

[38] Staff had originally made allegations (i), (iii) and (vii) above against Kefalas in the Statement of Allegations. During the hearing, Staff informed the Commission that they were only proceeding against Kefalas on allegation (vii), alleging that his conduct compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.

D. The Respondents

[39] There are a number of related entities that formed part of the overall Norshield Investment Structure at issue in this case and through which investor funds flowed, but that are not named as Respondents in this proceeding. The Respondents are as follows.

1. NAM

[40] NAM created investment products, conducted proprietary research, consulted and provided asset and risk management advisory services to fund and institutional clients.

[41] NAM was appointed to provide portfolio management services with respect to Olympus United Funds.

[42] NAM was incorporated on September 25, 1996 as a Canadian federal corporation and had its head office in Montreal. Prior to 1996 NAM carried on business as GIC Commodity Advisors of USA, GIC Asset Management Ltd. and Norshield Asset Management Ltd.

[43] NAM was wholly owned by Norshield Investment Partners Holdings Ltd. ("Norshield Partners"). Evidence was also presented which indicated that NAM was a subsidiary of NCMC. In any case, both Norshield Partners and NCMC were owned by Xanthoudakis.

[44] NAM was registered under Quebec securities laws as an advisor with an unrestricted practice. Its Ontario securities registrations are as follows:

(i) NAM was registered in the category of extra provincial adviser, investment counsel and portfolio manager from May 31, 2000 to February 20, 2003. On February 20, 2003, NAM changed its registration to investment counsel and portfolio manager. NAM was also registered with the Commission as a commodity trading counsel and commodity trading manager from November 5, 2003; and

(ii) On May 13, 2005, the Commission suspended all of NAM's registrations because it no longer had a designated compliance officer or a registered advising officer. On May 16, 2005, the Commission granted registration of a new advising officer at NAM, who was then designated as NAM's compliance officer and the Commission rescinded its previous order, revoking its suspension of NAM's registrations.

[45] On May 20, 2005, the Commission made a Temporary Order suspending NAM's registration. On October 20, 2006, that order was extended until the Proceeding is concluded and a decision of the Commission is rendered.

2. Olympus United Group

[46] Olympus United Group is a federal corporation with its head office in Montreal, Quebec. It was originally incorporated as Norshield Fund Management Ltd. on September 1, 1994, and carried on business under this name until its name was changed on May 16, 2002.

[47] Olympus United Group was registered with the Commission as a mutual fund dealer on April 21, 1998. On November 12, 1998, it also registered as a limited market dealer. It provided marketing services to Olympus United Funds, selling shares in the hedge fund to Canadian investors.

[48] Olympus United Group was granted membership in the Mutual Fund Dealers Association on March 4, 2003. Its membership was terminated as of September 26, 2006.

[49] Olympus United Group is wholly owned by Norshield Financial Holdings Ltd. ("Norshield Financial Holdings"), which in turn is wholly owned by Xanthoudakis.

[50] On May 13, 2005, the Commission made a temporary order suspending Olympus United Group's registration for not having a designated compliance officer or a registered trading officer. In a temporary order dated May 20, 2005, the Commission ordered that Olympus United Group not pay out, redeem or otherwise return any funds or other assets from any existing client accounts. Both orders were extended on October 20, 2006 until the conclusion of the Proceeding in this matter.

3. Xanthoudakis

[51] Xanthoudakis has worked in the financial services industry since 1982. He was President, Chief Executive Officer and a director of NAM.

[52] Xanthoudakis was President and a director of Olympus United Group.

[53] Xanthoudakis held the following Ontario securities registrations:

(i) with regard to NAM, from May 31, 2000 to May 13, 2005, he was registered as an extra provincial advisor, investment counsel and portfolio manager as a non-advising officer (President and Chief Executive Officer) and Director, and;

(ii) with regard to Olympus United Group and its predecessor, Norshield Fund Management Ltd., he was:

(a) a mutual fund dealer and a non-trading officer (President and Chief Executive Officer) from April 21, 1998 to December 1, 2000;

(b) a mutual fund dealer and a limited market dealer as a Director from December 1, 2000 to May 13, 2005; and

(c) a commodity trading counsel and a commodity trading manager as a non-advising officer (President and CEO) and Director from November 5, 2003 to May 13, 2005.

[54] According to an investment proposal submitted to TD Bank Financial Group, Xanthoudakis was the Chairman, CEO, a director and the controlling shareholder of the Norshield Financial Group ("NFG"), the trade name used to describe the corporate structure that marketed and managed investments in Olympus United Funds.

[55] He was also involved with other corporations that Staff allege are part of the Norshield Investment Structure. The level of his involvement in the Norshield Investment Structure is at issue in this matter, and is considered in the analysis below.

4. Smith

[56] Smith became a Chartered Accountant in 1972. In 1998, Smith commenced employment with Xanthoudakis as Chief Financial Officer of NFG. In 2000, he became President and Chief Operating Officer of NFG.

[57] Smith was the Secretary-Treasurer of NAM, though it is not clear from the evidence how long he held the position. Smith was also an officer of Olympus United Group.

[58] The Commission approved Smith with regard to NAM as an advisor in the categories of extra provincial adviser, investment counsel and portfolio manager, as a non-advising officer (Secretary and Treasurer) from May 31, 2000 to May 9, 2005. He was also approved with NAM as an advisor in the categories of commodity trading counsel and commodity trading manager, as a non-advising officer (Secretary and Treasurer), from November 5, 2003 to May 9, 2005.

[59] Smith was registered with the Commission as a mutual fund dealer and limited market dealer, as a non-trading officer (Secretary and Treasurer) for Olympus United Group and its predecessor corporation from December 7, 1999 to October 3, 2004.

[60] Smith served as a director of Olympus Bank starting in June 1999, and was Olympus Bank's Chairman and CEO beginning in January 2003.

[61] According to the Olympus United Funds offering memorandum, Smith was a director of Olympus United Funds starting in September 2001, and the President and CEO starting in February 2003. He was also a director of Olympus Univest.

[62] Aside from the above, Smith was also involved with other entities in the Norshield Investment Structure. His level of involvement in the Norshield Investment Structure is at issue in this matter, and is considered in the analysis below.

5. Kefalas

[63] Kefalas was employed with NAM and its predecessor corporations from March 1985 to April 2005. He was the Senior Portfolio Manager and was involved in the development of NAM's technical and tactical trading models.

[64] Kefalas's Ontario registrations with regard to NAM are as follows:

(i) he was registered as an advising officer and director under the category of extra provincial adviser, investment counsel and portfolio manager from May 31, 2000 to May 19, 2004;

(ii) he was registered as investment counsel and portfolio manager from November 19, 2004 to April 25, 2005;

(iii) he was the Compliance Officer from May 31, 2000 to February 19, 2003;

(iv) he was designated as Ultimate Responsible Person from August 25, 2004 to November 19, 2004;

(v) he was registered as an advising representative under the categories of investment counsel and portfolio manager from November 19, 2004 to April 25, 2005; and

(vi) he was registered as an advisor in the categories of commodity trading counsel and commodity trading manager under the *Commodity Futures Act*, R.S.O. 1990, Chapter 20, as amended as an officer (Investment Advisor and Senior Analyst) from November 13, 2003 to November 19, 2004, and then as an advising representative from November 19, 2004 to April 25, 2005.

E. Ownership and Management of the Norshield Investment Structure

[65] The Norshield Investment Structure raised and managed retail and institutional investor funds. For additional information on the entities involved in the Norshield Investment Structure, see Appendix A of these Reasons and Decision.

[66] According to a 2004 document prepared for the Commission by Karine Simoes, NAM's Director, Corporate & Legal Affairs, Xanthoudakis indirectly held ownership over the entire Norshield Investment Structure down to the Olympus Bank level. Xanthoudakis was also a director and the President of Olympus United Group.

[67] Smith was the Secretary-Treasurer of NAM and an officer of Olympus United Group. He held the following positions as of his March 21, 2005 resignations from NFG entities:

(i) President and Chief Operating Ofiicer of NFG;

(ii) director and officer of Olympus United Funds;

(iii) director and officer of Olympus United Funds Holding Corporation;

(iv) director, officer and Chairman of Olympus Bank;

(v) director and Acting Administrator of Olympus Univest; and

(vi) director of Olympus International Preferred Fund Ltd.

[68] According to the Receiver, Olympus Univest was apparently controlled by BICE International Inc. ("BICE International"), a Bahamian corporation. The Receiver noted that the June 21, 2004 offering memorandum for Olympus United Funds declares that BICE International was not associated with Olympus United Funds or Olympus Bank.

[69] Regardless of the ownership of Olympus Bank, the June 21, 2004 offering memorandum used in the distribution of the Olympus United Funds states:

> NAM Canada is responsible for any loss that arises out of the failure by Olympus United Bank or any other investment manager appointed by it to:
>
> (a) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of NAM Canada and Olympus United [Funds]; or
>
> (b) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
>
> NAM Canada has contractually acknowledged that it may not be relieved by Olympus United [Funds] and/or Olympus United Bank from these responsibilities.
>
> *Exhibit 3, tab 1* – Olympus United Funds Offering Memorandum, June 21, 2004 at 9.

[70] The identity of the owners of Olympus Univest, Mosaic Composite and the Channel Funds was an unsettled issue during this hearing, and is discussed further in the analysis below.

F. The Admissibility of Certain Transcripts

[71] During the hearing, Staff sought to admit transcripts of the testimony of five individuals examined by the Receiver under oath: Smith, Stephen Hancock ("Hancock"), Lowell Holden ("Holden"), Paul Gomez ("Gomez") and Peter Marini ("Marini").

[72] Hancock is a chartered accountant and was a director, Chair and CEO of Cardinal International Funds Services Ltd. ("Cardinal"), a Bahamian company, which acted as Mosaic Composite's and Olympus Univest's administrator. Hancock was a director of Mosaic Composite from October 1, 1997 until September 27, 2004, a director of Olympus Bank for an indeterminate amount of time starting in June 1999, and a director of Olympus Univest from January 17, 2001 until January 31, 2005. Hancock was a director and the Secretary-Treasurer of BICE International from November 8, 2002 to March 24, 2005. He was also a director of the Channel Funds.

[73] Holden was President, Chief Executive Officer and sole director of Mendota Capital, formerly Comprehensive Investor Services Ltd. ("CIS") and was also President of Mosaic Composite once it moved to the United States in July 2005.

[74] Gomez is a chartered accountant with the accounting firm Gomez & Gomez, a correspondent firm of Grant Thornton in the Bahamas, and was the person responsible for that firm's audits of Mosaic Composite in 2002 and 2003 and of Olympus Univest in 2003.

[75] Marini is a chartered accountant and works for the accounting firm Brooks, Di Santo in Montreal. He was the person responsible for the firm's audits of the Channel Funds in 2002 and 2003.

1. Submissions

Staff

[76] Staff submit that any issues regarding the admissibility of the transcripts should be addressed through the weight the Panel gives to the evidence in its final determination.

[77] Staff note that, with respect to the individuals other than Smith, none of them could have been compelled to testify at the hearing because they reside outside of the Commission's jurisdiction. When questioned, Staff stated that they did not invite any of the non-Respondents to voluntarily testify because they had already received transcripts from the Receiver and were confident they would be able to make use of them as evidence at the hearing. Smith, who is a Respondent, was free to choose whether to testify at the hearing.

[78] Staff further submit that Xanthoudakis and Smith have long-standing business relationships with Hancock, Holden, Gomez and Marini and could have sought further evidence from them.

Xanthoudakis and Smith

[79] Xanthoudakis and Smith submit that the Panel should use its discretion not to admit these transcripts because doing so would be inappropriate.

[80] They submit that if the transcripts were to be admitted, the Panel would not have an opportunity to evaluate the weight to be given to the evidence or to assess the credibility of the individuals through *viva voce* evidence. They also submit that the procedural protections in place during an examination-in-chief before the Commission were not necessarily present during the Receiver's examination of the individuals. Leading questions are commonly asked in compelled examinations and Hancock's counsel routinely left the room during his examination.

[81] Xanthoudakis and Smith also submit that they would not have an opportunity to cross-examine the individuals, to test the evidence or to obtain additional potentially exculpatory evidence from these individuals, which could result in prejudice to them. They argue that Staff made the decision to introduce evidence through the transcripts of interviews conducted by the Receiver, and hence made insufficient attempts to seek the aid of other regulatory agencies in order to compel the individuals to testify before the Commission. Xanthoudakis and Smith claim that Staff have not shown that the contents of the transcripts are necessary for the purposes of this Proceeding.

[82] Xanthoudakis and Smith claim they are reliant on information obtained through the disclosure process and from third parties, and that the Panel should take this information asymmetry into account in balancing the interests of the parties.

[83] Finally, they submit that Smith has a right not to testify as a Respondent to the Proceeding, and that Staff's request to admit the transcripts of his interview with the Receiver is an attempt to circumvent Smith's procedural rights.

2. The Law

[84] Subsection 15(1) of the *Statutory Powers Procedure Act,* R.S.O. 1990, c. S.22 ("SPPA") states:

> **What is admissible in evidence at a hearing**
>
> **15**. (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
>
> (a) any oral testimony; and
>
> (b) any document or other thing,
>
> relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

[85] In their submissions, Staff refer to a British Columbia Court of Appeal decision on the admissibility of hearsay transcript evidence in a regulatory securities proceeding. In this case, the court determined that the British Columbia Securities Commission did not err in admitting transcripts of examinations conducted by staff of that Commission, where the individuals in question refused to appear at the hearing and where the commission lacked the jurisdiction to compel the individuals to testify (*Huber v. British Columbia (Securities Commission)* (1994), 3 C.C.L.S. 98 (B.C.C.A) at paras. 25-31).

3. Ruling

[86] Given the complexity of this case, we ruled at the hearing that the transcripts of Hancock, Holden, Gomez and Marini would be admitted, for the reasons below.

[87] The Panel has the discretion under s. 15 of the SPPA to admit hearsay evidence, but in exercising its discretion it must have regard to the matter before it. The more serious and contentious the matter, the more a tribunal must have regard to the rights of the parties. Though the Panel has the discretion to admit hearsay evidence, the rules of evidence are relevant and applicable in Commission proceedings. Natural justice and fairness issues must still be considered by the Panel when ruling on admissibility.

[88] Parties are entitled to a reasonable opportunity to comment on and contradict evidence. However, hearsay evidence need not be tested by cross-examination in all circumstances.

[89] If the Panel admits the evidence, it must be careful not to put too much weight on the evidence when making its final decision. For example, undue weight should not be placed on uncorroborated evidence. It should also be remembered, that while the standard of proof in administrative proceedings is the civil standard of a balance of probabilities, in the interest of a fair hearing, allegations can only be proven by clear and cogent evidence, as stated in *Investment Dealers Association of Canada v. Boulieris* (2004), 27 O.S.C.B. 1597 (O.S.C.) at para. 34, affirmed [2005] O.J. No. 1984 (Div. Ct.).

[90] In view of the fact that Smith is a Respondent in this Proceeding, we determined that the transcript of his interview with the Receiver would not be admitted.

[91] As a matter of fundamental fairness, persuasive collateral evidence is required to make adverse findings where those findings will have serious consequences for a respondent. In this decision, wherever we have relied on transcript evidence, we have only done so where it is consistent with or supported by other evidence.

II. ANALYSIS

A. Were Xanthoudakis and Smith directing minds of the Norshield Investment Structure?

[92] In order to appropriately consider the allegations against Xanthoudakis and Smith, we must first examine their roles and responsibilities within the Norshield Investment Structure.

1. Submissions

Staff

[93] Staff submit that the Norshield Investment Structure was directed at all times by NFG, through Xanthoudakis and Smith.

[94] Staff refer to NFG marketing materials that describe Xanthoudakis as Chairman and CEO and Smith as the President and Chief Operating Officer. Staff note that Xanthoudakis owned, and along with Smith, held positions of authority in many of the entities in the Norshield Investment Structure. Staff submit that Xanthoudakis, directly or indirectly, owned NAM, Norshield Financial Holdings, Norshield Partners, Norshield Investment Corporation ("NI Corporation"), NCMC, Olympus United Funds and Olympus Bank.

[95] Staff contend that the named directors of various entities connected to the Norshield Investment Structure were merely nominees and that ultimate control lay with Xanthoudakis and NAM. Staff submit that Xanthoudakis and Smith's roles extended beyond the NAM, Olympus United Group and Olympus Bank levels and encompassed communications with end-clients and investment advisors throughout the structure. Staff refer to evidence from compelled examinations that state that instructions on the management of the Channel Funds and Mosaic Composite came from Xanthoudakis and Smith. Staff submit that Xanthoudakis and Smith also directed the Univest Multi Strategy II Fund ("MS-II") transactions (discussed at paragraphs 211 to 228) that resulted in the sale of the SOHO Option, at the bottom of the Norshield Investment Structure.

[96] Staff submit that Xanthoudakis and Smith played an active role in audits of all the Norshield Investment Structure entities, and had the final say in the calculation and reporting of the NAVs.

[97] Staff submit that, as owner of numerous entities within NFG, Xanthoudakis had a role as a directing mind of NFG and thus, of the Norshield Investment Structure. According to a chart prepared by the Receiver, 87 percent of the carrying value of the Channel Funds assets at September 30, 2003 was attributable to companies related to NFG and/or Olympus Univest.

[98] According to Staff's submissions, Xanthoudakis had the final say in decisions regarding investments in the Norshield Investment Structure. Staff claim that employees' inquiries about the Norshield Investment Structure were directed to him and Smith, as the ultimate decision makers of the structure.

[99] Staff submit that Xanthoudakis was the directing mind of not only the respondent companies, but also many others connected to the Norshield Investment Structure, including BICE International, Liberty Trust and the Orion Trust.

[100] Staff refer to the positions held by Xanthoudakis's sister-in-law as further evidence of his connection to all parts of the Norshield Investment Structure. Staff state that she served as an officer and/or director of Cardinal (the company notionally in charge of Mosaic Composite's and the Channel Funds' books and records), BICE International, Mosaic Composite, Liberty Trust and CIS.

[101] Staff submit that Smith's roles as officer and director of entities within the Norshield Investment Structure make him a directing mind in the structure. At different times he was an officer and director of NAM, Olympus United Group, Olympus United Funds and Olympus Bank. He was on the board of directors for Olympus Univest and many of the companies that appear on the financial statements of the Channel Funds.

[102] Staff point out that Smith admits that he was representing the interests of NFG by maintaining directorships on the boards of various Channel Funds investee companies. According to Staff, Smith chose the auditors of these companies and participated at every level at the audit process.

[103] Staff note that in his testimony, Massi described what he knew about the relationship between Xanthoudakis and NFG and the recipients of unexplained payments from Olympus Bank and Mosaic Composite that total $214 million.

Xanthoudakis and Smith

[104] Xanthoudakis and Smith argue that it is not credible to suggest that either of them was a directing mind of all the entities in the Norshield Investment Structure, given the scale of the operations that NAM was providing advisory services to in 2004 or 2005. They submit that after 2003, Xanthoudakis was principally running the entities in Canada that were providing advisory services and Smith was running Olympus Bank, but their responsibilities did not extend to other entities.

[105] Xanthoudakis and Smith claim that Staff are incorrect in their submission that they had a directing role in the Norshield Investment Structure below the Olympus Bank level. They submit that Mosaic Composite and its investee companies were run by other organizations and qualified management personnel. They claim that Mosaic Composite was controlled by Hancock, who was more than just a "rent-a-director".

[106] Xanthoudakis and Smith express serious concern about the reliability of Hancock's statements about their roles with Mosaic Composite and the Channel Funds. They claim that Hancock has personal motivation to distance himself from the events at issue within the Proceeding. They submit that Hancock was well-qualified to sit as a director of many of the Norshield Investment Structure entities, with an admitted special focus in business management, financial engineering, banking and multi-currency treasury management and corporate finance.

[107] Xanthoudakis and Smith claim that NAM was completely separate from Mosaic Composite, that the books and records of Mosaic Composite were not the responsibility of NAM and that Xanthoudakis and Smith could not have accessed them. They claim that Cardinal provided hedge fund administration services to Olympus Univest and Mosaic Composite, and was ultimately responsible for problems with the books and records of those entities.

[108] Xanthoudakis and Smith claim that Cardinal was also responsible for providing the NAV calculations until 2004.

[109] Xanthoudakis admits to having had a family relationship with his former sister-in-law, but submits that it is unfair to assume she did not have her own professional background and aspirations, and did not perform her duties independently from Xanthoudakis.

[110] Xanthoudakis and Smith argue that there is a significant break in the chain of control alleged by Staff. They submit that until January 2003, control of Olympus Bank was in the hands of a man by the name of Fred Purvis and his management team, who owned a 50 percent interest in Olympus Bank up to that point in time. Xanthoudakis and Smith allege that decisions to invest in the Olympus Univest structure were made by Olympus Bank's independent management, and that Fred Purvis and his team were the directing minds of that part of the Norshield Investment Structure, which oversaw between $97 million and $130 million in investments during their tenure as managers of Olympus Bank.

[111] Xanthoudakis and Smith admit their involvement with many Norshield Investment Structure entities, but make a distinction between co-operation and communication with these entities and having a controlling role within them. Xanthoudakis submits that even if he did not have a completely arm's length commercial relationship with some entities, this would not make him their *de facto* directing mind.

[112] Smith also submits that his role should be distinguished from that of Xanthoudakis. He argues that they each had their own roles and responsibilities, with Xanthoudakis focused on policy advisory work and the selection of managers for the managed portfolio platform, and Smith involved in the running of Olympus Bank from January 2003 onwards.

[113] Smith contends that his involvement in audits of entities within the Norshield Investment Structure was appropriate, given his background as a chartered accountant. He submits that his role extended only so far as to ensure that all entities that needed to report had done so, and that this is not evidence that he was a directing mind of those entities.

2. Analysis

[114] Xanthoudakis and Smith have been held out to be in control of NFG. In a hedge fund management proposal submitted to the TD Bank Financial Group, Xanthoudakis was described as Chairman, founder and controlling shareholder of NFG. In a document presented to the SEI Investments Company, Xanthoudakis is described as Chairman and Chief Investment Officer and Smith is described as President and Chief Operating Officer of NFG.

[115] NFG is a trade name for the overall corporate structure and is not an incorporated entity. According to a chart provided to Staff during an on-site compliance review at NAM's offices in Montreal, NFG included Norshield Financial Holdings, Olympus United Group, Norshield Partners, NAM, Olympus United Funds Holding Corporation, Olympus United Funds, Olympus Bank and Norshield Investment Partners Inc. (U.S). All of the entities in NFG are listed on the chart as being directly or indirectly owned in their entirety by Xanthoudakis.

[116] As noted above, Xanthoudakis was NAM's President, CEO and a director and was President and a director of Olympus United Group until they went into receivership.

[117] Smith was Secretary-Treasurer of NAM and of Olympus United Group.

[118] According to its June 21, 2004 offering memorandum, Smith served as a director of Olympus United Funds from September 2001, and was President and CEO beginning in February 2003. Smith was a director of Olympus Bank from June 1999, and served as its Chairman and CEO starting in January 2003. He was also a director of Olympus Univest starting in January 2003.

[119] Smith sat on the boards of numerous companies in which the Channel Funds had invested, including Microslate Inc., Oceanwide.com Inc., Vezina Composites Inc., BDP Retirement Homes Inc. and AMT International Mining Corp.

[120] Hancock, who served as an officer and director of BICE International, the Channel Funds and Cardinal, and a director of Olympus Univest and Mosaic Composite, told the Receiver under oath that all instructions in respect of Mosaic Composite and the Channel Funds came from Xanthoudakis through Smith. He stated that he liaised with Smith, but it was his understanding that Xanthoudakis was the decision maker who passed instructions on to Smith. Hancock also stated that he did not make investment decisions for the Channel Funds, but that instructions came from Smith, who he presumed was acting on decisions made by Xanthoudakis to accept investments that were being transferred into the Channel Funds.

[121] While the Respondents submitted that Hancock had his own reasons for distancing himself from events at NAM, his testimony was under oath, uncontradicted by the Respondents and consistent with that of the NFG employees who appeared as witnesses.

[122] We heard evidence from four former employees of NAM and Olympus United Group, Patterson, Young, Tran and Kefalas. All of these individuals testified that Xanthoudakis was the ultimate decision maker as to the investment of funds in the Norshield Investment Structure, including the selection of hedge fund managers. Patterson also stated that Xanthoudakis had final approval over communications with clients and investment advisors and that when Cardinal ceased as administrator for Olympus Univest, Smith would have been the most aware of the state of NAV calculations.

[123] In addition, employees sent email inquiries regarding the Norshield Investment Structure, Olympus United Funds, Olympus Univest, compliance issues and NAV calculations to Xanthoudakis and Smith.

[124] We note that when RBC Capital Markets terminated the SOHO Option in June 2005, they copied Xanthoudakis on the notice. We also note that Xanthoudakis was directly and indirectly involved in the MS-II transactions and a number of option transactions, which are discussed in greater detail below. These transactions were integral to provide liquidity to Mosaic Composite to meet redemption requests and to support valuations used to produce NAVs at the Olympus United Funds level.

3. Conclusion

[125] Xanthoudakis and Smith were clearly the directing minds of the structure down to the Olympus Bank level, and evidence of their involvement in transactions and communications at the levels below indicate they were the directing minds and management of the Norshield Investment Structure as a whole. The evidence consistently showed that Xanthoudakis and Smith were treated as though they were in control of the Norshield Investment Structure.

[126] Taking into account all of the evidence, we find that Xanthoudakis and Smith were the directing minds and management of the Norshield Investment Structure. Xanthoudakis and Smith did not provide any evidence to contradict this conclusion.

B. Did NAM, Olympus United Group, Xanthoudakis and Smith, fail to deal fairly, honestly and in good faith with clients?

[127] Staff allege that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with their clients, contrary to subsections 2.1(1) and (2) of OSC Rule 31-505 – *Conditions of Registration*.

1. Submissions

Staff

[128] In particular, Staff submit that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal honestly, fairly and in good faith with investors in their management of investor funds, in calculating the NAVs and in their conduct with regard to redemption requests.

Management of Funds

[129] Staff submit that that these respondents have not accounted for the funds invested by Canadian retail investors. Staff further submit that they permitted payments in excess of $200 million to be made from Olympus Bank and Mosaic Composite without due diligence.

[130] Staff submit that NAM, Olympus United Group, Xanthoudakis and Smith engaged in the commingling of investment funds without proper record-keeping, resulting in competing claims over assets and unsupported valuations of assets.

> Various hedge funds under the common management or direction of [NAM], [Olympus United Group], Xanthoudakis and Smith (such as Globe-X, [Mosaic Composite] and Commax) were commingled without record keeping or independent and reliable valuations so that redemptions could be made from new subscription funds in [Olympus United Funds]/[Olympus Univest], as required. Investors were never told that the fund that they had invested in was in-fact a combination of legacy funds and assets for which records and valuations did not exist.
>
> Written Submissions of Staff, dated April 30, 2009 at para. 3.

[131] Staff take issue with the actions of these respondents surrounding in-kind investments accepted at the Olympus Univest level. They submit that Xanthoudakis and Smith did not provide sufficient information on the investors or valuations of the in-kind investments. Staff claim that it was improper for these respondents to continue to accept subscriptions when the Norshield Investment Structure was in a net redemption mode, and to be involved in the MS-II share sale transactions which amounted to preferential redemptions for some investors.

[132] Staff allege that NAM, Olympus United Group, Xanthoudakis and Smith directed investor funds into entities for which they did not know the identity of the beneficial owners or which they falsely denied were under their control. The breach of securities law, according to Staff, stems from the duty of these respondents as the registered investment adviser and dealer to account for investor funds. Staff also submit that a significant portion of investors' funds were paid by Mosaic Composite and Olympus Bank to third parties with connections to Xanthoudakis.

NAV Calculations

[133] Staff submit that Xanthoudakis and Smith prepared and instructed the preparation of false NAVs that were reported to investors. Staff allege that overvaluations of assets were improperly obtained to perpetuate the creation of false financial reporting, which Xanthoudakis and Smith then relied upon in false NAVs. Staff allege that NAVs were improperly calculated based on the gross value of the portfolio of investments held by Mosaic, without regard to the leveraged component of the assets, and that the non-hedged assets were not included in the NAV calculations.

Redemptions

[134] Staff submit that NAM's, Olympus United Group's, Xanthoudakis's and Smith's response to redemption requests made by investors were similarly contrary to their obligations to deal fairly, honestly and in good faith.

[135] Staff allege that the assets that investors could look to for recovery were improperly encumbered and/or liquidated and disposed of. Staff make specific reference to transactions involving MS-II shares, which they allege amounted to a preference over other investors with outstanding redemption requests in late 2004. Mosaic Composite sold 16,667 of its 29,667 MS-II Class A shares to Univest Convertible Arbitrage Fund Ltd. and Univest High Yield Fund Ltd. (together, the "Univest Purchasers"). Mosaic Composite then essentially transferred its remaining 13,000 Class A shares to the Univest Purchasers. Staff claim the Univest Purchasers were given preference over the other investors with redemption requests in late 2004.

[136] Staff claim that these respondents improperly continued to accept subscriptions and make redemptions while knowing that the Norshield Investment Structure was in net redemption mode, that all liquid assets had been depleted, that valuations were at issue and that financial statements were overdue. Staff submit that by 2003, an increasing amount of newly invested funds were being used to satisfy redemption requests.

[137] While redemption requests were coming in, Staff allege that the Respondents improperly disposed of and liquidated assets in the Norshield Investment Structure, which investors could otherwise have looked to for recovery.

[138] Staff submit that NAM, Olympus United Group, Xanthoudakis and Smith acted improperly after the MS-II transactions resulted in the sale of most of Mosaic Composite's interest in the SOHO Option by continuing to calculate NAVs based on the gross value of the SOHO Option.

Xanthoudakis and Smith

Management of Funds

[139] Xanthoudakis and Smith refer to audited financial statements for Mosaic Composite and Olympus Univest, and submit that they were justified in relying on these documents to satisfy their obligation to account for investor funds. They submit that their responsibility did not extend to the Mosaic Composite or Channel Funds level of the Norshield Investment Structure.

[140] According to Xanthoudakis and Smith, there is not sufficient information to determine how specific transactions and in-kind subscriptions occurred. They submit that there is a significantly deficient record relating to transactions that could be the key to understanding the reasons for the failure of the Norshield Investment Structure. Xanthoudakis and Smith did not provide details regarding the in-kind investors to the Receiver because they submit there is an evidentiary vacuum with respect to the events surrounding these transactions.

[141] They take the position that there has been a very limited investigation and that interviews and documents from individuals who clearly played a key role within the Norshield Investment Structure are not available. According to Xanthoudakis and Smith, the evidentiary record is incomplete. They submit that Staff have relied on the Receiver, whose objective differs from Staff's, with a greater focus on the recovery of assets than on conducting a thorough investigation.

[142] Xanthoudakis and Smith further submit that the question concerning payments in excess of $200 million was not properly at issue in this Proceeding because it is not a clearly articulated allegation in the Statement of Allegations.

NAV Calculations

[143] In response to allegations that they did not adequately disclose the details of the leverage associated with the SOHO Option, Xanthoudakis and Smith submit that the offering documentation given to investors correctly characterized the nature of the investment. They submit that the NAVs reported to investors correlated to the nature of the investment they were subscribing to, being the returns from the reference portfolio. They argue that valuations of assets were done as a going concern, and that once the structure failed, their value declined. In any case, they contend that the evidence suggests that the NAVs were all reported accurately and properly and organizations such as RBC would not have provided such a platform if material facts had been concealed.

[144] They submit that no inference of improper behaviour should be drawn from the fact that certain people working within the Norshield Investment Structure were not aware of how the entire structure worked. They contend that this is a natural situation given the complex nature of the investment structure.

[145] Xanthoudakis and Smith submit that Tran reviewed the RBC Capital Markets reports on the position values of the SOHO Option which identified the notional amount, the strike price and the premium. It is their position that there was no attempt to hide the SOHO Option and that there was nothing unusual about using that kind of structure within a hedge fund.

Redemptions

[146] According to Xanthoudakis and Smith, the redemption requests within the Norshield Investment Structure must be considered in its context. It is their position that the performance of similar funds at the time and the negative and unusual press that inferred fraudulent conduct on the part of Xanthoudakis and the Norshield Investment Structure, resulted in a massive increase in redemption requests. They submit that any fund in a net redemption mode for a sustained period of time, would also be in financial trouble, and that it was a result of the increase in redemption requests that the illiquid unhedged investments could not be monetized in a sufficient time frame.

2. The Law

[147] Section 2.1 of OSC Rule 31-505 states:

> **2.1 General Duties –** (1) A registered dealer or adviser shall deal fairly, honestly and in good faith with its clients.
>
> (2) A registered salesperson, officer or partner of a registered dealer or a registered officer or partner of a registered advisor shall deal fairly, honestly and in good faith with his or her clients.
>
> …

3. Analysis

[148] Both Xanthoudakis and Smith were required to comply with section 2.1 of OSC Rule 31-505 under their Ontario securities registrations.

(a) Management of Investor Funds

i. In-kind Investments

[149] Staff allege that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with their clients by allowing in-kind investments to be made into the Norshield Investment Structure without providing further details of the nature of the assets or their values.

[150] Canadian retail investor funds were commingled with other investments at the Olympus Univest level. Massi testified that the Receiver estimated that approximately $200 million in cash was invested in Olympus Univest, in addition to approximately $140 million of Canadian retail investor funds flowing from Olympus Bank. Xanthoudakis and Smith told the Receiver that between $40 and $100 million of further investments were made at the Olympus Univest level in the form of in-kind investments. Accordingly, the evidence is that investments at the Olympus Univest level amounted to between approximately $380 million and $440 million.

[151] While in-kind subscribers received the same rights as those investors who contributed actual cash into the Norshield Investment Structure, there is no evidence to substantiate the values assigned to the in-kind investments. Xanthoudakis and Smith did not provide the Receiver with any details as to the identities of the in-kind investors, the nature of the assets, the method by which the assets were valued or the number of in-kind shares redeemed. Furthermore, the Receiver stated that subsequent to October 2004, the books and records of Olympus Univest were incomplete, and as a consequence the Receiver could not provide any detail on the in-kind subscriptions.

[152] The possibility that in-kind investments might have been accepted on improvident terms, and consequently might have impaired the ability of Canadian retail investors to redeem their shares in Olympus United Funds, is deeply concerning. However, we have not been presented with evidence which would allow us to conclude whether the role of the in-kind investments in the Norshield Investment Structure was improper or whether NAM, Olympus United Group, Xanthoudakis or Smith failed to deal fairly, honestly and in good faith with their clients by allowing these investments.

ii. Commingling of Funds

[153] The Olympus United Funds offering memorandum dated June 21, 2004 clearly states that funds invested would be used to provide capital to the segregated asset cells of Olympus Bank and that such cells “protect assets from creditors with respect to obligations arising out of other segregated asset cells and non-cellular assets of that corporation”.

[154] The offering memorandum also states that proceeds from the issuance of various classes of shares would be invested in other investment funds, consistent with chosen investment objectives. For example, the core investment made with the proceeds from the issuance of the Class I shares, which account for the majority of the Olympus United Funds assets, is

Olympus Univest. The offering memorandum is silent as to whether subscriptions generated through alternative channels were received directly by Olympus Univest, but the Receiver testified that institutions made direct investments. This is consistent with the contents of an investment proposal to TD Bank Financial Group made by Patterson on NAM's behalf, where there is a reference to the Univest Institutional Fund.

[155] We were not provided with any evidence indicating that the funds were commingled at the Olympus Bank level. However, the Olympus United Funds June 21, 2004 offering memorandum indicates that the monies raised from the issuance of shares at the Olympus Bank level would be invested in other funds, and that some of those funds were affiliated funds.

iii. Third Party Payments

[156] Staff also assert that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with Canadian retail investors by directing or permitting inappropriate payments to third parties. The Receiver has not been able to determine the purpose of these transactions and we were not presented with any evidence as to the nature of, or the reasons for, the various payments (the "Unexplained Payments").

[157] According to the Receiver, from 2002 to 2004, Mosaic Composite made Unexplained Payments totalling $154.5 million, and from 2001 to 2005, Olympus Bank made Unexplained Payments totalling $60.7 million, to certain third parties, for which the Receiver was unable to obtain adequate documentation.

[158] In particular, Mosaic Composite made the following payments:

CIS (subsequently, Mendota Capital, Inc.)	$38.4 million
BICE International	3.2
Globe-X Management Ltd., Globe-X Canadiana Ltd., Globe-X Enhanced Yield Fund, Globe-X International, and Globe-X Asset Appreciation (collectively the "Globe-X Entities")	57.6
C-MAX Advantage Fund Ltd.	14.0
Commax Management	18.3
Univest Fixed Return for Emerald Key Management	3.6
Real Vest Investment Ltd.	1.6
Silicon Isle Ltd.	3.7
Olympus Bank for Liberty Trust	
(rounding)	14.2
	(0.1)
	$154.5 million

[159] Olympus Bank made the following payments:

CIS (subsequently, Mendota Capital, Inc.)	$40.9 million
Cardinal	9.6
BICE International	5.1
Norshield Investment Partners Inc.	2.0
Univest Global Funds Ltd.	1.4
Balanced Return Fund	1.0
Sterling Leaf Income Trust	0.7
	$60.7 million

Exhibit 9 – Report of RSM Richter Inc. in its Capacity as the Court-Appointed Receiver of the Norshield Companies, September 16, 2008 at paras. 177-186.

[160] Many of these third parties were identified during the hearing as entities related to or under the control of Xanthoudakis. We were not provided with any evidence that either Xanthoudakis or Smith received any financial benefit from the Unexplained Payments, nor has such an allegation been made by Staff or such an assertion been made by the Receiver.

[161] The Globe-X Entities were funds located in the Bahamas. Gomez stated in his interview with the Receiver that the Globe-X Entities were related in some way to the Norshield companies. Massi testified that it was his belief that the Globe-X Entities were predecessor funds to the Olympus Univest investment structure. He testified that this portfolio of investments was being managed by Xanthoudakis and his team at NFG.

[162] CIS is the beneficiary of Liberty Trust, which entered into option agreements with Xanthoudakis and companies he directly controlled, Norshield Financial Holdings and NCMC.

[163] Massi testified that the C-MAX Advantage Fund Ltd. was a fund under the direction of Xanthoudakis and NFG that operated in the 1990s. The Channel Funds also held an investment in C-MAX Advantage Fund Ltd. until 2002.

[164] Kefalas testified that it was well known that Xanthoudakis had the controlling interest in Commax Fund.

[165] In an organization chart prepared by the receiver for Mount Real Financial Management Services Corporation ("Mount Real") and provided to the Receiver, both Real Vest Investment Ltd. and Sterling Leaf Income Trust appear as entities related to Mount Real. Xanthoudakis's name appears in the same organization chart.

[166] According to a December 18, 2003 letter written by Holden in his capacity as the Managing Director of Silicon Isle Ltd., Smith and Lino Matteo ("Matteo"), who was the President and Chief Executive Officer of Mount Real, acted as representatives of Silicon Isle Ltd. in connection with an escrow agreement. In a separate but related agreement dated November 11, 2004, Smith and Matteo signed as representatives of Silicon Isle Ltd. The escrow agreement related to the monies resulting from the purchase of assets by Liberty Trust from Silicon Isle. Such funds were to be used in an attempt to settle various legal proceedings, which included, among others, Cinar Corporation, Xanthoudakis, Silicon Isle Ltd. and a number of the Globe-X Entities.

[167] Evidence was also presented which shows that Xanthoudakis previously had a significant holding in Mount Real Corporation, and that Xanthoudakis and Matteo have a longstanding business relationship. Once the Norshield Investment Structure entered a liquidity crisis, Matteo became directly involved in the structure as shown in a series of emails retrieved from NAM's computers by the Receiver. We find that Xanthoudakis and Matteo were in a non-arm's length relationship during the relevant period.

[168] A lack of information with respect to payments exceeding $215 million to third parties is of considerable interest. However, as already stated, we were not presented with any evidence as to the nature of, or the reasons for, the Unexplained Payments. Absent such evidence, we cannot conclude whether the Unexplained Payments demonstrate that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with their clients.

[169] We consider NAM and Olympus United Group's alleged failure to maintain adequate books and records with regard to the Unexplained Payments below.

(b) NAV Calculations

[170] Staff allege that, in addition to mismanaging Canadian retail investor funds, NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with these investors in the information provided to them about NAVs.

[171] Communication of correct NAV calculations was critical to the equitable treatment of investors. Subscription prices and redemption values were based on the NAV calculations. The offering memorandum of Olympus United Funds dated June 21, 2004 contains this description:

> **How the Class Shares are Valued and Sold**
>
> ...
>
> The Class Shares are offered at the net asset value per Class Share determined by us … on the first Valuation Date following the date on which the subscription is received …
>
> …

Redemptions

> Subject to all applicable laws, the Class Shares are redeemable both by you and by us under certain circumstances. The Net Asset Value per Class Share to be redeemed is currently determined as of the last Business Day of each week or such other date as determined by us …
>
> *Exhibit 3, tab 1* – Olympus United Funds Offering Memorandum, June 21, 2004 at ii.

[172] The June 21, 2004 offering memorandum also states that NAV was to be calculated by the directors of Olympus Univest in accordance with such methods of evaluation as the directors deemed proper, and in accordance with generally accepted accounting principles.

[173] The Receiver reviewed the NAV calculations for certain weeks in 2004 and 2005 and concluded that the NAV calculations for the Norshield Investment Structure were based on the returns of the hedged assets of Mosaic Composite as well as other assets held at the Olympus Bank level, less fees and expenses, without regard to the leverage relating to the SOHO Option. The Receiver also noted that the value of Mosaic Composite's non-hedged assets was not included in the calculation of the NAVs.

[174] According to information Smith provided to the Receiver with respect to an agreement between Olympus Univest and Mosaic Composite, Mosaic Composite's non-hedged assets were not included in the NAV calculations because they were solely for the benefit of Mosaic Composite. Massi testified that Smith told the Receiver that through this agreement, Mosaic Composite assumed responsibility with respect to the leverage of the SOHO Option and guaranteed to Olympus Univest 100 percent of the underlying NAV of the Olympic Univest portfolio. According to the information Smith gave the Receiver about the agreement, Mosaic Composite was responsible for paying indebtedness to third parties and for maintaining cash reserves to meet liquidity needs. The Receiver was unable to obtain a copy of this agreement.

[175] A letter to investors from Xanthoudakis dated May 11, 2006 describes the structure as follows:

> There were basically two portfolios operating under one special purpose investment company, Mosaic Composite Limited:
>
> a) the investor portfolio, consisting of Hedge Funds that invested in low risk investment strategies with world class fund managers, which portfolio Royal Bank of Canada lent to and held security; and
>
> b) the collateral portfolio, consisting of less liquid securities used to support the investment structure.
>
> *Exhibit 5, tab 4* – Letter from John Xanthoudakis dated May 11, 2006.

[176] Since the NAVs were calculated in reliance on the fact that the collateral investments retained their original value or that Mosaic Composite had the ability to make up for any shortfall, their accuracy depended on the ability of Mosaic Composite to fulfill the terms of the investment agreement. However, the evidence indicates that Mosaic Composite's non-hedged assets were artificially inflated in value and were not sufficient to support the terms of the investment agreement. The Receiver concluded that the asset values on the Channel Funds' audited financial statements for fiscal 2002 and 2003 were overstated by at least US $200 million and US $300 million, respectively. The Receiver describes the impact of this in its report to the Commission:

> … As a result, the value of the [Channel Funds'] assets was overstated by approximately 88% on their fiscal 2003 financial statements.
>
> Since Mosaic [Composite] did not have sufficient Non-hedged Assets to fulfill its obligations to Olympus Univest, the NAVs upon which the subscriptions to and redemptions from Olympus Univest and [Olympus United Funds] were made were inflated. …
>
> The Receiver has concluded that in view of the enormous disparity between the value of the underlying assets within the Norshield investment structure and the NAVs reported to the Retail Investors, as well as the illiquid nature of those assets, the collapse of the Norshield investment structure was inevitable once redemptions exceeded subscriptions.
>
> *Exhibit 9* – Report of RSM Richter Inc. in its Capacity as the Court-Appointed Receiver of the Norshield Companies, September 16, 2008 at paras. 162-164.

i. Mosaic's Non-Hedged Assets

[177] According to Mosaic Composite's September 30, 2003 financial statements, there were approximately $307 million in assets carried on its balance sheet in the form of equity shares and/or debentures in the Channel Funds. These investments constituted the material component of Mosaic Composite's non-hedged assets.

[178] The Channel Funds were incorporated in the Bahamas in the late 1990s as the Tristar Funds. Massi testified that, based on the Receiver's investigation, little of the purported $307 million held by Mosaic Composite in the Channel Funds can be traced to actual cash investments:

> When we were doing our flow of funds analysis, we came to the revelation that there was very little actual funds or disbursements that we saw going through the Mosaic entity into the Channel Fund and any of the Channel Fund entities.
>
> …
>
> So in a flow of cash perspective, we saw investor money coming in at the [Olympus United Funds level], at the Olympus Univest level, and flowing out at the [Mosaic Composite] level to outside parties. And yet, we saw very little cash actually going into the Channel Fund.
>
> And we came to the conclusion that there was really a parallel stream whereby the Channel Fund was really – the investments generated which appeared on the balance sheet of [Mosaic Composite] was really generated as a result of paper transactions as opposed to real investments of cash into the Channel Fund.
>
> … we saw very little cash flowing down to the Channel Fund. Minimal. I believe it was 1-million odd dollars …
>
> Hearing Transcript, November 4, 2009, pp. 141 and 146.

[179] Staff assert that the assets held by the Channel Funds were not purchased with investor funds, but were transferred from other funds or, from October 2000 to September 2002, through non-monetized option transactions in relation to assets held by NCMC, Norshield Financial Holdings and Xanthoudakis. NCMC and Norshield Financial Holdings were entities owned by Xanthoudakis. NCMC was used to make investments in private equity and Norshield Financial Holdings was a holding company for Olympus United Group. Tran, a former employee of NAM, testified that NCMC did not invest funds from Canadian retail investors.

ii. Option Transactions

[180] Assets owned by Xanthoudakis directly and through Norshield Financial Holdings and NCMC were optioned first to Liberty Trust, and then again to the Channel Funds by way of option agreements. While the assets were recorded on the Channel Funds' financial statements, there is no evidence that the premiums or strike prices associated with the various options were ever paid. Furthermore, the Respondents have not provided us with any evidence to support the valuation of the various assets, nor has the Receiver been able to find any such evidence in the course of its investigation.

[181] Liberty Trust was created in July 1999. At the time the option transactions took place, the settlor was Thomas Muir, a former director of Mosaic Composite and the trustee was Longview Associates. The beneficiary of Liberty Trust is CIS, the shareholders of which are unknown to us or to the Receiver. The Channel Funds engaged in a series of option transactions with Liberty Trust in respect of the shares of four separate entities that were previously owned by Xanthoudakis, Norshield Financial Holdings and NCMC.

First Series of Option Transactions:

[182] On October 1, 2000, Liberty Trust entered into an option agreement to purchase 19.6 Class A common shares of First Horizon Holdings Ltd. (now Olympus United Funds) from Norshield Financial Holdings. The option granted Liberty Trust the right to purchase these shares at a price of US $2 million.

[183] On the same day, one of the Channel Funds companies (then the Tristar Fund Ltd.) entered into an option agreement with Liberty Trust to acquire the same shares at a price of US $59,100,370.

[184] The Receiver was unable to obtain satisfactory information to explain the increase in value of the shares on the same day of roughly US $57 million. The Receiver's investigation found no evidence that the option price was ever paid and title to the shares acquired. In addition, while the September 30, 2002 financial statements of one of the Channel Funds carried the interest

in First Horizon Holdings Ltd. (now Olympus United Funds) at US $59,100,370, the September 30, 2003 financial statements carried the interest at US $92,249,740. We were not presented with any evidence which explains the significant increase in value of the interest in First Horizon Holdings Ltd. over that year.

Second Series of Option Transactions:

[185] On October 1, 2000, June 30, 2001 and June 30, 2002, Liberty Trust, Norshield Financial Holdings and NCMC entered into option agreements under which Liberty Trust was to acquire from Norshield Financial Holdings and NCMC 722, 713, and 287 common shares of Microslate Inc. at prices of US $5,870,000, US $5,800,000 and US $2,330,000, respectively (for a total of US $14,000,000).

[186] On the same day of each of the option agreements, a further option agreement was entered into by the Channel Funds (then the Tristar Funds) and Liberty Trust regarding the acquisition by the Channel Funds of the same common shares of Microslate Inc., with option prices of US $12,720,000, US $12,562,000 and US $5,056,423, respectively (for a total of US $30,338,423). Here too, the Receiver was not able to obtain satisfactory information to explain the values at which the Microslate Inc. shares were optioned to the Channel Funds. The Receiver found that the Channel Funds' accounts do not indicate that the option prices were ever paid.

[187] While the shares of Microslate Inc. were carried on the September 30, 2002 financial statements of the Channel Funds at US $30,338,423, the September 30, 2003 financial statements of the Channel Funds carried the shares at only US $19,438,423. We were not presented with any evidence to explain the change in value of the Microslate Inc. shares.

Third Series of Option Transactions:

[188] On October 1, 2000, Liberty Trust also entered into an option agreement with NCMC and Norshield Financial Holdings to purchase 148.5 Class A shares and 2,308,017 Class D shares of Vezina Composites Inc., at a price of US $1,000,000. On the same day, the Channel Funds and Liberty Trust entered into an option agreement with respect to the same shares, at a price of US $2,881,946. We were not presented with any evidence to explain the increase in value on the same day, and the Channel Funds' accounts do not indicate that the option price was ever paid.

Fourth Series of Option Transactions:

[189] Finally, on March 31, 2002, Liberty Trust and Xanthoudakis and Norshield Financial Holdings entered into an option agreement under which Liberty Trust acquired the right to buy 40 Class D shares of Olympus United Holdings Inc., with a strike price of US $10 million. The same shares were the subject of a subsequent option agreement between the Channel Funds and Liberty Trust on September 30, 2002, with a strike price of US $46,084,776. Again, we were not presented with any evidence to explain the significant increase in price between the two options.

[190] It appears that the option prices in the various agreements were used by the Channel Funds in valuing the assets in their portfolios for the purposes of their financial statements. Consequently, the option transactions discussed above resulted in an aggregate increase in the book value of the Channel Funds of US $138.4 million. In the Report of RSM Richter Inc. in its Capacity as the Court-Appointed Receiver of the Norshield Companies, the Receiver told Staff at paragraph 171:

> The effect of these option transactions was to artificially inflate the value of the Channel Entities, which represented the most significant portion of Mosaic's non-hedged assets, by at least $129 million (US$111 million).

[191] We agree with the Receiver's finding that there was an overstatement of the value of the underlying assets held by the Channel Funds. The values of these private equity investments in Mosaic Composite's portfolio were overstated in the transactions described above, and in the Channel Funds' 2002 and 2003 financial statements.

iii. Other Assets

[192] According to the Channel Funds' financial statements, they also held interests in assets other than those which became part of their portfolio by way of option agreements.

[193] A 95% ownership in Emerald Key Management Ltd. was carried at US $40.2 million on the Channel Funds' September 30, 2002 financial statements. The Receiver was not able to obtain any records to support the value of the asset or explain how it was acquired by the Channel Funds. On July 29, 2003, the asset was sold to BICE International for US $148 million, payable over six years and secured by the ownership interest itself. Consequently, the Channel Funds reported a gain of US $107.8 million, and the US $148 million owed by BICE International appeared on its September 30, 2003 financial statements as a receivable.

[194] We were not presented with any evidence to explain the initial valuation of the ownership interest in Emerald Key Management Ltd. at approximately US $40 million and its subsequent valuation at US $148 million. The Receiver did not find that the US $107.8 million gain reported by the Channel Funds had been satisfactorily explained or justified. According to the Receiver, the effect of these transactions was to inflate the value of Emerald Key Management Ltd. on the Channel Funds financial statements by replacing it with a receivable of significantly higher value from BICE International. The Receiver concluded that this consequently artificially inflated the NAVs for Mosaic Composite, Olympus Univest, Olympus Bank and Olympus United Funds.

[195] In addition to the interest held by the Channel Funds through option agreements and the receivable from BICE International, according to the Channel Funds' September 30, 2003 financial statements, they had these investments / assets:

Emerald Key Advisors	US $ 8.0	million
Oceanwide.com Inc.	14.7	
Lonald Holdings N.V. (PRB SA)	3.2	
Niocan Inc.	1.5	
BDP Retirement Homes Inc.	1.0	
AMT International Mining Corp.	1.0	
Other	7.4	
	US $ 36.8	million

[196] According to the Channel Funds' September 30, 2003 financial statements, the total value of their portfolios was US $343,500,024.

iv. Valuations

[197] The Receiver concluded that the asset values in the audited financial statements of the Channel Funds were overstated by at least US $200 million for 2002 and US $300 million for 2003, an overstatement of approximately 88 percent in 2003.

[198] Xanthoudakis and Smith submit they relied on audits done for various entities in the Norshield Investment Structure. While they do not go so far as to claim reliance on the audits as a defence, they contend that the audits are a relevant consideration:

> The fact that audits were being undertaken by credible audit firms is relevant information in trying to interpret the facts of this case and in my submission suggests that there must have been some kind of back up, sufficient back up, both from an accounting books and records perspective, from the perspective of analyzing material financial transactions that took place within those corporate entities with respect to the reliability of management representations concerning the business and affairs of those corporations.
>
> In my submission, the fact [that] audit opinions were rendered, audited, and financial statements were produced would suggest that this was not some kind of rolling Ponzi scheme as suggested by Staff …
>
> Hearing Transcript, May 6, 2009, pp. 84-85.

[199] Xanthoudakis and Smith argue that Staff's and the Receiver's inability to obtain the full audit files from auditors in the Bahamas, Barbados and Canada has made it more difficult for all concerned to put a complete record before the Commission.

[200] Mount Real provided a letter to Gomez & Gomez dated December 30, 2001 confirming the value of the Tristar Ltd. debentures held by Composite Fund, Ltd. as of June 30, 2001. The letter also stated that neither Mount Real nor any of its subsidiaries were related to Tristar Ltd. Matteo signed a further letter from Mount Real Corporation confirming the Mount Real letter on January 9, 2002. (Tristar Ltd. is a predecessor name for a Channel Fund. Composite Fund, Ltd. is a predecessor name for Mosaic Composite.)

[201] In his examination before the Receiver, Gomez stated that he relied upon Mount Real's valuation of the Channel Funds' debenture investments while performing the audit of Mosaic Composite. However, he also stated that he did not believe Mount Real to be an arm's length party. He stated that he thought there was a connection between Mount Real and the Norshield Investment Structure, and that he did not have confidence in Mount Real's valuations.

[202] Gomez & Gomez also received a management representation letter dated January 2, 2002 from Hancock, as a director of Mosaic Composite, which assured them that the valuations of investments in debentures were properly presented.

[203] Gomez stated, during his examination, that he believed Smith to be the driving force behind the audits, and that Gomez & Gomez asked Smith if Grant Thornton could perform an audit of the Channel Funds for 2002. He stated that Smith chose Brooks, Di Santo to perform the audit instead.

[204] In its 2002 audit of the Channel Funds, Brooks, Di Santo relied on valuations done by Mount Real Innovation Centre, which was also an investee of the Channel Funds. Valuations of the following companies were done by Mount Real Innovation Centre as at September 30, 2002: First Horizon Holdings Ltd. (now, Olympus United Funds), Emerald Key Advisors Inc., Investsafe and Olympus United Holdings Ltd. In its 2003 audit, Brooks, Di Santo relied on valuations by Spectrum Financial Services ("Spectrum"). In the Receiver's research on Spectrum, it found Spectrum provided various human resources and accounting services.

[205] We find that the NAVs were artificially inflated, as the NAVs relied on the integrity of the valuations of the Channel Funds assets. This is discussed more fully in our analysis below.

(c) Conduct Surrounding Redemption Requests

[206] Staff submit that NAM, Olympus United Group, Xanthoudakis and Smith improperly dealt with redemption requests from investors, breaching their duty to deal with them fairly, honestly and in good faith.

i. Use of Subscription Funds to pay Redemptions

[207] It is clear from the evidence presented by Staff that retail investors were providing liquidity to the Norshield Investment Structure. From 2001 to 2005, $264.7 million were raised from retail investors and $139.3 million were invested at the Olympus Bank and Olympus Univest level, with most of the difference apparently having been used for meeting redemptions from other investors.

[208] Investment funds are frequently in a situation where redemptions and new investments are not equal, and where accepting new subscriptions is acceptable. However, the issues regarding the nature of the actual assets in the investment structure and the appropriateness of the calculations used in establishing NAVs are critical in treating investors fairly. These are discussed below.

[209] Staff submit that subscriptions were inappropriately accepted when financial statements were overdue. Olympus United Funds' financial statements for the financial year ending September 30, 2004 were not completed by January 30, 2005. $5.4 million in retail subscriptions were accepted after this period in 2005 and it is likely that additional retail subscriptions were accepted in late 2004.

[210] The problem of financial statements being overdue is a technical issue. The fundamental problem with accepting further subscriptions at that time was the fact that the Respondents engaged in conduct, including their involvement in the option transactions discussed earlier and in the MS-II transactions, that would have made them aware that subscriptions ought not to have been accepted. Given all the evidence, we find that NAM, Olympus United Group, Xanthoudakis and Smith breached their duty to deal fairly, honestly and in good faith by accepting these subscriptions.

ii. The MS-II Transactions

[211] Through the MS-II transactions, Staff submit that the respondents displayed preferential treatment to shareholders by fulfilling their requests for redemptions over the requests from Canadian retail investors.

[212] Once Olympus United Funds and Olympus Bank were facing significant redemption requests, steps were taken to generate sufficient liquidity to meet them. Mosaic Composite's interest in the SOHO Option was the most valuable asset in the Norshield Investment Structure, and the primary source from which the redemption requests could be satisfied. However, if all or part of the SOHO Option was exercised to access its intrinsic value, they would no longer be able to calculate NAVs as they had been, and the security which provided investors with leveraged exposure to the portfolio of hedge fund managers would be fully or partially liquidated.

[213] Staff submit that in order to gain access to the value in the SOHO Option while maintaining the basis of the inflated NAV calculations, Mosaic Composite assigned its rights and interest in the SOHO Option to MS-II. MS-II is a Cayman Islands entity, of which Xanthoudakis became a director on February 3, 2005. On November 10, 2004, Mosaic Composite assigned its equity interest of approximately US $52 million held in the SOHO Option to MS-II in exchange for 29,667 Class A shares and 22,949 Class B shares of MS-II. The effective date was October 29, 2004.

[214] The Class A shares were to provide Mosaic Composite with returns on the equity portion of the SOHO Option and the Class B shares were to provide Mosaic Composite with returns on the leveraged component of the SOHO Option, less any inherent costs in the option.

[215] Three sets of transactions occurred regarding the Class A and B shares of MS-II held by Mosaic Composite to generate liquidity.

[216] Effective November 1, 2004, Mosaic Composite sold 16,667 Class A shares of MS-II with a net asset value of US $16,667,000 to the Univest Purchasers for US $15 million. The proceeds that Mosaic Composite received were directed by Michael Maloney ("Maloney"), a director of Mosaic Composite, to a Montreal law firm named Hart, Saint-Pierre, in trust. Although the copies of documents relating to this transaction that were entered into evidence are signed by Maloney only, MS-II and Norshield Investment Partners Inc. were also listed as parties to the transaction. In addition, the direction of the US $15 million from the Univest Purchasers to Hart, Saint-Pierre, in trust for Mosaic Composite was sent on Norshield Investment Partners Inc. letterhead. Norshield Investment Partners Inc. was the Univest Purchasers' Investment Manager.

[217] In a letter dated November 11, 2004, Maloney instructed Hart, Saint-Pierre to transfer US $9 million of the US $15 million to Liberty Trust to satisfy an amount owing by Mosaic Composite to Liberty Trust for assets purchased. On November 12, 2004, pursuant to an escrow agreement between Liberty Trust and Silicon Isle, and on the instruction of four individuals, including Matteo and Smith, the US $9 million was used to purchase Univest II USD shares of "Olympus United Corporation" in trust for Silicon Isle (the cheque from Hart, Saint-Pierre relating to this transaction was made payable to Olympus United Funds Corporation). The escrow agreement specifically referred to the US $9 million as being the funds received from Mosaic Composite.

[218] Further, in a letter dated November 11, 2004, Maloney instructed Hart, Saint-Pierre to pay the remaining US $6 million to NI Corporation as payment for assets purchased by Mosaic from NI Corporation. As a director of NI Corporation, Xanthoudakis signed the direction of payment for this transaction, which instructs the NI Corporation payment to be made to an Olympus Bank account.

[219] A fax with copies of Maloney's payment directions for the US $15 million received by Mosaic Composite as a result of the sale of MS-II shares to the Univest Purchasers was sent from NFG in Montreal to Norshield Investment Partners Inc. in Chicago on November 11, 2004.

[220] On or about December 1, 2004, Mosaic Composite submitted 14,725.6 of its Class B shares in MS-II for redemption. MS-II was able to raise US $15 million to meet the redemption request by reducing its equity in the SOHO Option. On Maloney's instruction, the US $15 million was paid to Olympus Univest by way of Cardinal.

[221] Mosaic Composite created a number of separate entities which were strategy specific and called the Mosaic Strategy Funds. In August 2004, the Univest Equity Long Short Fund made a total investment of US $13 million in the Mosaic Callisto Fund Ltd., the Mosaic Leda Fund Ltd., and the Mosaic Adrastea Fund Ltd. These funds are referred to as feeder funds and are shareholders of Mosaic Composite. At some point in time, their name was changed from Mosaic Strategy Funds to Tessera Funds (the "Tessera Funds").

[222] The Univest Equity Long Short Fund made a redemption request dated October 5, 2004 for its entire investment in the three Tessera Funds. This request was acknowledged by Cardinal with a trade dated November 5, 2004. The redemption request was not met as of November 5, 2004. Instead, a letter of agreement was entered into between Univest Equity Long Short Fund, Mosaic Composite and the Tessera Funds whereby it was agreed the redemption request could be met by payment of cash or an in-kind payment through MS-II Class A shares by January 5, 2005. Effectively, Mosaic Composite entered into an agreement to meet its redemption request through the delivery of its MS-II Class A shares. Alternatively stated, the Univest Equity Long Short Fund could receive MS-II Class A shares with a NAV equal to the unpaid redemption amount to discharge its receivable from Mosaic Composite, and a Tessera Funds receivable was created by the redemption request (the "Tessera Funds Receivable").

[223] According to Massi's testimony, a series of transactions in January 2005 resulted in Mosaic effectively redeeming the remaining 13,000 of its MS-II Class A shares in exchange for the Tessera Funds Receivable. This was achieved by Univest Equity Long Short Fund transferring the Tessera Funds Receivable to the Univest Purchasers which in turn transferred it to MS-II for 13,148 MS-II Class A shares. At the same time, Mosaic Composite redeemed 13,000 of its MS-II Class A shares and received the Tessera Funds Receivable from MS-II. While Massi noted that the Receiver did not see the documentation for the internal transfers between the Univest Equity Long Short Fund and the Univest Purchasers, the end result is consistent with the documentation provided during the hearing, namely, that a Univest fund received MS-II Class A shares from Mosaic Composite as an in-kind payment for a redemption request.

[224] Staff submit that Mosaic Composite did not act properly in accepting the Tessera Funds Receivable, and that there is no record of their attempt to collect on this receivable. However, as Mosaic Composite would have created a payable related to

the Tessera Funds Receivable at the time they or the Tessera Funds could not meet the Univest Equity Long Short Fund redemption request, the receipt of the Tessera Funds Receivable would effectively eliminate this payable on a consolidated basis. However, we find that these transactions gave certain investors priority to the available liquidity in a way that should have been known would disadvantage the remaining investors. It is clear from events, such as the inability of the Tessera Funds to meet the Univest Equity Long Short Fund redemption request, that there were liquidity problems and that the Channel Funds investments could not be readily liquidated to meet certain redemption requests at the Mosaic Composite level. As a result, the SOHO Option was the only liquid asset and was used to meet redemption requests. This increased the exposure of the remaining investors to the illiquid Channel Funds which was further complicated by the overvaluation of the assets in the Channel Funds as described earlier.

[225] We find that Xanthoudakis and Smith were aware of the exchange of MS-II shares for the Tessera Funds Receivable. In an e-mail dated April 26, 2005, the Chief Financial Officer of Norshield Investment Partners Inc. in Chicago asked for clarification from Xanthoudakis and Smith on the confirmation of the conversion of the Tessera Funds Receivable into MS-II shares, so that the Univest Strategy Fund audits could be finalized. The email also asked Xanthoudakis and Smith why Maloney had not provided confirmation to the auditor.

[226] Following the January 2005 transactions, Mosaic Composite's interest in the SOHO Option consisted of 8,224.4 Class B shares of MS-II with a carrying value of US $6.5 million. However, Olympus Fund's NAV continued to be calculated on the basis of the gross value of the SOHO Option.

[227] Xanthoudakis was copied on a June 1, 2005 letter to MS-II from RBC terminating the SOHO Option. This evidence and the evidence provided through the option transactions described earlier do not support a finding that Xanthoudakis was not responsible for activity in the Norshield Investment Structure below the Olympus Bank level.

[228] Xanthoudakis and Smith were clearly involved in transactions that occurred at the Mosaic Composite level of the Norshield Investment Structure. Corporations that were owned, either directly or indirectly by Xanthoudakis, or for which he and Smith were officers and/or directors were directly involved in each step of the MS-II transactions.

[229] Xanthoudakis and Smith's involvement in these transactions was a breach of their duties as directors and officers of NAM and Olympus United Group to deal fairly, honestly and in good faith with clients. The interests of those who benefitted from the Tessera Funds Receivable transaction were favoured to the detriment of other investors with outstanding redemption requests.

[230] We also find that Olympus United Group and NAM failed to deal fairly, honestly and in good faith with clients in the share redemptions that were the result of the Tessera Funds Receivable Transaction.

4. Conclusion

[231] We find that NAV calculations in 2004 and 2005 were artificially inflated and that Xanthoudakis and Smith were fully aware of this. The NAV calculations were based on the investment agreement which, according to Smith's assertion, existed between Olympus Univest and Mosaic Composite. The majority of the reported value of Mosaic Composite's non-hedged assets was generated by way of paper transactions, which include a series of option transactions and a receivable of US $148 million from BICE International. We note that Xanthoudakis and Smith were involved in many of the various paper transactions and were certainly aware of the option transactions, which served to inflate the NAV calculations. The MS-II transactions were an attempt to convey the value in the SOHO Option to the Univest Equity Long Short Fund to satisfy redemption requests without actually meeting redemption requests in cash. This resulted in the remaining investors having to rely on the equity investments in the Channel Funds to an even greater extent for NAV support and, as discussed earlier, we find that the value of these assets was overstated.

[232] We were not presented with any evidence to justify the value created by the paper transactions; or any evidence of any actual cash being withdrawn from or deposited to the Channel Funds' bank accounts in connection with the paper transactions.

[233] It is clear that NAM, Olympus United Group, Xanthoudakis and Smith all allowed Mosaic Composite to accept the Tessera Funds Receivable in exchange for its interest of 13,000 Class A shares of MS-II. This constituted a preference over other investors in the Norshield Investment Structure.

[234] While we are concerned that the values of the Channel Funds assets were overstated in 2002 and 2003, we do not have any evidence of any NAV calculations for these years, so we have restricted our finding on NAV calculations to 2004 and 2005.

[235] We note that the Respondents were generally unable to account for investors' funds. We heard evidence that the Receiver put forth considerable efforts to trace the movement of investor funds through the Norshield Investment Structure, but was not able to determine exactly where the funds went. Although we are not making findings on what happened to the

investment funds, the Respondents' inability to account for these funds does not support a conclusion that they behaved fairly, honestly and in good faith with investors.

[236] We therefore find that NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with investors. Communicating information to investors based on artificially inflated NAVs and engaging in transactions that amounted to giving preference to particular redemption requests over others are acts in breach of the duties articulated in s. 2.1 of OSC Rule 31-505.

[237] While we have noted our concern with regard to the acceptance of in-kind investments by Olympus Univest, as well as the Unexplained Payments which were made by Olympus Bank and Mosaic Composite, Staff did not lead sufficient evidence to conclude whether NAM, Olympus United Funds, Xanthoudakis or Smith acted improperly by allowing them to take place.

C. Did NAM and Olympus United Group fail to keep proper books and records for the entities in the Norshield Investment Structure?

[238] Staff allege that NAM and Olympus United Group failed to maintain proper books and records for the Norshield Investment Structure in contravention of section 19 of the Act and section 113 of Ontario Regulation 1015.

[239] In the Statement of Allegations, Staff claim that no audited financial statements were prepared or filed for any of the entities referred to in the Norshield Investment Structure, other than NAM, for financial periods after September 30, 2003. They state that adequate books and records in relation to the flow of funds through the Norshield Investment Structure during the material time have not been produced, nor has any documentation with respect to transactions occurring after September 30, 2003 been produced.

1. Submissions

Staff

[240] Staff submit that despite repeated requests from Staff and the Receiver, NAM, Olympus United Group, Xanthoudakis and Smith have not produced the required books and records.

[241] Staff assert that financial statements and accounting records of investments in and by the Channel Funds should have been accessible and reasonably up to date at all times. NAM and Olympus United Group ought to have had accurate records of subscriptions and redemptions. Staff submits that Olympus United Group and NAM ought to have known the officers, directors and beneficial owners of the entities involved in the Norshield Investment Structure.

[242] Staff submit that these respondents did not provide the following required materials during or subsequent to Staff's on-site compliance review in May 2005: (i) a copy of the agreement between Mosaic Composite and Olympus Univest regarding Mosaic Composite's undertakings with respect to the SOHO Option; (ii) a copy of the agreement between Mosaic Composite and RBC regarding the SOHO Option; (iii) a complete organization chart of the Norshield Investment Structure; (iv) records evidencing the flow of investor funds within the Norshield Investment Structure; (v) documents to support the existence of client assets; and (vi) current financial statements for all entities within the Norshield Investment Structure after September 30, 2003.

[243] Staff submit that there is evidence from the Receiver that additional violations of securities law record-keeping requirements were committed by NAM, Olympus United Group, Xanthoudakis and Smith. Based on evidence from the Receiver, Staff submit that: (i) Olympus Bank records were stale-dated by at least two months at the time the Receiver was appointed; (ii) evidence indicates that computers had been removed and file folders emptied from the NAM Montreal offices once the Receiver was appointed; (iii) relevant records were moved to Minnesota and only preserved through court proceedings initiated by the Receiver; (iv) only limited records of Olympus Univest and Mosaic Composite subsequent to September 2003 were available; and (v) Xanthoudakis and Smith failed to fully provide the Receiver with records provided by Cardinal to NAM employees.

[244] According to Staff, over $200 million went from Mosaic Composite and Olympus Bank to entities that appear to have relationships with NFG and Xanthoudakis, yet proper records of these payments were not provided to the Receiver. Staff submit that these payments were made to the detriment of Canadian retail investors without good reason and in the absence of any documentation. Staff submit this is a breach of Xanthoudakis's and Smith's duties as officers and directors of registrants.

[245] Staff submit that Ontario registrants are not relieved from their duty to account for the use and flow of investor funds because offshore jurisdictions were involved and books and records may have been kept offshore. NAM and Olympus United Group were obliged to keep sufficient records to account for investor funds and make them available at all times.

[246] In addition, Staff allege that NAM and Olympus United Group did not properly keep their own records. They submit that records of subscriptions and redemptions, documents relating to NAM activities, shareholder resolutions, NAM's minute book and other important documentation were missing.

Xanthoudakis and Smith

[247] Xanthoudakis and Smith submit that the documents held by NAM, Olympus United Group and Olympus Bank were kept appropriately, and that any deficiencies in the books and records were due to failures by Mosaic Composite to provide reliable audited financial statements. Xanthoudakis and Smith assert that NAM was not responsible for the books and records of all companies in the Norshield Investment Structure, especially those in other jurisdictions. They argue that it was reasonable for NAM to rely on other entities to maintain their own books and records. They also submit that evidence with respect to the state of the books and records below the Olympus Bank level is lacking because certain records and working papers were not available to the Receiver.

[248] Xanthoudakis and Smith claim that Cardinal was in control of Mosaic Composite and responsible for its records. They associate the delay in financial reporting by Mosaic Composite with the loss of Cardinal's services. They allege that this delayed the completion of financial statements for Olympus Univest, which further delayed the completion of financial statements for Olympus United Funds in Canada. According to Xanthoudakis and Smith, the Respondents' responsibilities did not extend to the financial records of Mosaic Composite and the Channel Funds. The delay in Olympus United Funds reporting was directly attributable to delays further down in the investment structure caused by entities for which the Respondents were not responsible.

[249] According to Xanthoudakis and Smith, it was reasonable and appropriate for NAM in its role as advisor within the Norshield Investment Structure to rely on Cardinal, as a credible third party entity, to maintain the books and records of Mosaic Composite and the Channel Funds.

[250] It is the position of Xanthoudakis and Smith that proper audits had been conducted for Olympus United Funds up to September 2003, when the problem of the delayed information from other entities began. They claim that there is nothing covert or mysterious about the financial statements for 2003, and that audits were done at all levels of the Norshield Investment Structure by well-known accounting firms.

[251] As explained during the hearing, the Receiver was involved at that time in litigation in the Bahamas. As a result of this pending litigation, the Receiver was prohibited from providing to Staff some documentation in its possession relating to the auditors' working papers for some of the entities in the Norshield Investment Structure.

[252] Xanthoudakis and Smith submit that the books of Olympus United Group, Olympus Bank, and NAM and its related companies were in good order. The only deficiency was that the financial statements had not been completed for 2004 due to the failure of Mosaic Composite to provide reporting confirmations that held up the audit process for other entities further up in the Norshield Investment Structure.

[253] In response to allegations regarding the removal of documents from NAM's Montreal office, Xanthoudakis and Smith submit that there is no basis for this claim and that Massi provided no evidence to support any suggestion that records relevant to the Respondent companies having been removed.

[254] Xanthoudakis and Smith submit that on the evidence, it would appear that the records were reasonably up to date and in good order in the circumstances, unless there is an expectation that records of other Norshield Investment Structure entities be kept in Canada.

[255] As stated earlier, Xanthoudakis and Smith submit that the question of unexplained payments was not properly at issue in this Proceeding because it was not a clearly articulated allegation in the Statement of Allegations.

2. The Law

[256] Under section 19 of the Act, registrants are obligated to keep and maintain proper books and records, and to produce those books and records as required by the Commission:

> **19. (1) Record-keeping** – Every market participant shall keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs and the transactions that it executes on behalf of others and shall keep such other books, records and documents as may otherwise be required under Ontario securities law.
>
> …
>
> **(3) Provision of Information to Commission** – Every market participant shall deliver to the Commission at such time or times as the Commission or any member, employee or agent of the Commission may require,

(a) any of the books, records and documents that are required to be kept by the market participant under Ontario securities law; and

(b) except where prohibited by law, any filings, reports or other communications made to any other regulatory agency whether within or outside of Ontario.

[257] Ontario Regulation 1015, subsection 113(1) states the following:

> **113. (1)** Every registrant shall maintain books and records necessary to record properly its business transactions and financial affairs.

3. Analysis

[258] Massi testified that the Receiver had difficulty tracking investor funds below the Olympus Bank level, as a result of incomplete books and records held by NAM and Olympus United Group. In particular, Massi identified the following information as missing when his firm was appointed as Monitor and when it continued as Receiver: (i) up-to-date records of subscriptions and redemptions; (ii) documents relating to the activities of NAM; (iii) supporting documentation for the NAV calculations; (iv) NAM's minute book; (v) signed shareholder resolutions; and (vi) agreements with brokers, fund managers, administrators, and custodians.

[259] Massi also testified that when the Receiver entered NAM's offices in Montreal on June 2, 2005, it was apparent that computers and documents had been removed.

[260] Cardinal was hired as the administrator for Mosaic Composite and Olympus Univest. When Cardinal could no longer provide the services it was hired to perform, those companies had an obligation to ensure that the necessary services were still performed.

[261] Massi testified that the Receiver received an anonymous tip in May 2006 that eighty boxes of documents relating to the Norshield Investment Structure had been transported from Chicago, Illinois to the Minnesota Horse and Hunt Club. The Receiver successfully obtained a court order in Minnesota authorizing the immediate seizure and delivery of documents related to the Norshield Investment Structure located there. Approximately 36 boxes were ultimately recovered, which contained information that proved useful in the Receiver's investigation.

[262] Xanthoudakis and Smith submit that there is no evidence to suggest anyone was trying to do anything improper with the documents transported to the Minnesota Horse and Hunt Club. They submit that there is no record of the Receiver communicating with anyone to obtain these records on a voluntary basis and therefore no evidence that anyone would have resisted providing those records.

4. Conclusion

[263] The Respondents have submitted that they were not responsible for maintaining the books and records of the entities in the Norshield Investment Structure below the Olympus Bank / Olympus Univest level. While we do not find the Respondents had direct responsibility under the Act for maintaining the books and records of those entities, we find, however, that Mosaic Composite and the Channel Funds were so integral in the value chain to investors (so fundamental to the investment structure) that better information relating to their activities and assets should have been available. Given the number of transactions that we have discussed earlier relating to option transactions and MS-II, it is clear that Xanthoudakis and Smith were not at arm's length to Mosaic Composite and the Channel Funds. The Respondents should have been able to make this information available to the Receiver and others looking for an explanation of the investment structure.

[264] Further, we find that NAM's and Olympus United Group's failure to maintain adequate records of significant transactions involving the uses of investors' funds and events affecting the value of their investments was contrary to section 19 of the Act and section 113 of Ontario Regulation 1015. In particular, NAM and Olympus United Group did not provide, and therefore presumably did not have, up-to-date records of subscriptions and redemptions, sufficient supporting documents for the NAV calculations, documentation regarding the in-kind investments made at the Olympus Univest level, documents regarding the Unexplained Payments made by Olympus Bank and Mosaic Composite, copies of the investment agreement between Olympus Univest and Mosaic Composite, copies of the agreement between Mosaic Composite and RBC in regard to the SOHO Option, and other relevant documents.

[265] We have not been presented with sufficient evidence to come to any conclusions with regard to the documents held at the Minnesota Horse and Hunt Club. The source of these documents is not clear and we have not been able to determine

whether they were under the control of any of the Respondents. We note that Staff and the Receiver never attempted to gain access to the documents held by Norshield Investment Partners Inc. (U.S.) in the United States.

D. As a consequence of their positions of seniority and responsibility and in their positions as officers and directors of NAM and/or Olympus United Group, did Xanthoudakis and Smith authorize, permit or acquiesce in the alleged violations of the requirements of Ontario securities laws and breaches of duties discussed in B and C above?

1. The Law

[266] Staff alleged that Xanthoudakis and Smith authorized, permitted or acquiesced in violations of securities law by Olympus United Group and NAM. Director and officer liability for securities law breaches is set out in subsection 122(3) and section 129.2 of the Act. Subsection 122(3) states:

> **s. 122(3) Directors and officers** – Every director or officer of a company or of a person other than an individual who authorizes, permits or acquiesces in the commission of an offence under subsection (1) by the company or person, whether or not a charge has been laid or a finding of guilt has been made against the company or person in respect of the offence under subsection (1), is guilty of an offence and is liable on conviction to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.

[267] Similarly, section 129.2 states:

> **s. 129.2 Directors and officers** – For the purpose of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127,

2. Analysis and Conclusion

[268] Given our determination that Xanthoudakis and Smith were directing minds of the Norshield Investment Structure, and the clear evidence that they were officers and/or directors of NAM and Olympus United Group, it is clear that Xanthoudakis and Smith are liable for the breaches of Ontario securities laws described in B and C above.

[269] We have already concluded that Xanthoudakis and Smith did not deal fairly, honestly and in good faith with investors in B, above. Even had we not concluded that they breached their duties personally, we would still find them liable for NAM's and Olympus United Group's breaches as directing minds and as directors and/or officers of the corporations. Their knowledge of the artificially inflated NAVs and their connections to the MS-II and third party payment transactions are evidence that they, at a minimum, authorized, permitted or acquiesced in these breaches of duties. Their direct involvement in these transactions demonstrates a much closer relationship than they acknowledge.

[270] In their roles as directors and officers, Xanthoudakis and Smith had a responsibility to ensure that NAM and Olympus United Group properly discharged their responsibilities. As directing minds of the Norshield Investment Structure they were in a position to have access to the relevant information that should have been included in NAM's and Olympus United Group's records, including relevant records of subscriptions and redemptions and NAV calculations.

E. Did the Offering Memorandum filed and distributed by Olympus United Group contain misleading information and/or fail to state facts which were required to be stated?

[271] Staff allege that the offering memorandum filed and distributed by Olympus United Group contained misleading or untrue information and/or failed to state facts which were required to be stated, in contravention of clause (b) of subsection 122(1) of the Act.

1. Submissions

Staff

[272] Staff submit that the offering memorandum used by NAM and Olympus United Group to market shares in Olympus United Funds was materially misleading in several respects.

[273] Staff submit that the offering memorandum should have made reference to: investments other than the segregated asset cells of Olympus Bank, the high degree of leverage that would be used, the fact that this leverage would be supported by investments in private companies and the involvement of foreign jurisdictions, in addition to Barbados. According to Staff, only a small percentage of investor funds were allocated in the manner described in section 2.6 of the offering memorandum through investments, multi-manager alternative investment portfolios, proprietary index trading and futures trading strategies.

[274] Staff submit that the offering memorandum did not disclose that a high degree of leverage would be used or that this leverage would be supported or collateralized by investments in private companies held by the Channel Funds. Staff insist that the risks of these leveraged investments, particularly with respect to liquidity, should have been identified. It is Staff's position that there is no evidence of any intention to inform investors of this higher level of risk. They submit that investors needed to know these risks in order to make sensible investment decisions.

[275] Staff submit that the offering memorandum should have disclosed that investment funds from Olympus United Funds would be commingled with other funds, regardless of the investment strategy selected and should have accurately described the manner in which NAVs would be calculated. They submit that the NAVs reported to investors were based exclusively on Mosaic Composite's hedged assets and assets at the Olympus Bank level less fees and expenses, so that the leverage was not included in the NAV calculations. Staff point out that there is no mention of Mosaic Composite in the offering documents for Olympus United Funds.

Xanthoudakis and Smith

[276] Xanthoudakis and Smith submit that the offering documentation given to investors was accurate and correctly characterized the nature of the investment. They take the position that the offering documents accurately represented the product the way it was intended to work until events transpired to cause the funds to fail, and that is the way it did work.

[277] Xanthoudakis and Smith submit that they, NAM and the other entities within the Norshield Investment Structure intended to provide investors with what they were told they would receive in the offering memorandum: a return based on a reference portfolio that happens to be very complex. They submit that the rate of return passed on to investors was exactly as represented in the offering memorandum.

[278] In response to Staff's allegation that they should have disclosed what was happening to investor funds below the Olympus Bank level, Xanthoudakis and Smith assert that it is not unusual for investors to receive a return based on a reference fund or portfolio without all the assets invested residing in that fund or portfolio. It is their submission that many financial institutions accept investments that are essentially leveraged, while providing a contractual right of return to investors.

[279] Xanthoudakis and Smith contest the allegations regarding a lack of disclosure relating to the significant leverage of the funds and their support by a portfolio of illiquid private equity investment. They submit that it was the intention of the structure to provide returns based on the performance of the managed account portfolio and that until the structure collapsed, this is exactly what investors did receive. They submit that this was also what was reported to investors through the NAV calculations. They contend that there are many structured products on the market which use significant leverage, and submit that this can be a method of reducing risk. They suggest that a detailed description of the leverage structure was not required in the offering memorandum.

[280] Xanthoudakis and Smith submit that Cardinal was responsible for the NAV calculations for the SOHO Option and the tactical trading accounts up to 2004. They therefore argue they are not responsible for any errors in the calculation.

[281] Xanthoudakis and Smith do not deny that investor funds were used to meet redemption requests, but it is their submission that there is no rule that indicates that this would be improper when the funds had not yet been applied within the investment structure.

2. The Law

[282] Subsection 122(1)(b) of the Act read as follows:

> **122. (1) Offences, general –** Every person or company that,
>
> …
>
> (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue

> or does not state a fact that is required to be stated or that is necessary to make the statement not misleading;
>
> …
>
> is guilty of an offence and on conviction is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.

[283] Staff allege that the offering memorandum contained misleading statements, and that Olympus United Group was in breach of s. 122(1)(b) when the offering memorandum was delivered pursuant to the accredited investor exemption under OSC Rule 45-501, s. 6.4:

> s. 6.4 Delivery of Offering Memorandum – If an offering memorandum is provided to a prospective purchaser, the seller must deliver to the Commission a copy of the offering memorandum or any amendment to a previously delivered offering memorandum within 10 days of the date of the distribution.

3. Analysis – content of the offering memorandum

[284] The investments in Olympus United Funds were sold pursuant to the accredited investor exemption, under OSC Rule 45-501.

[285] The Olympus United Funds offering memorandum dated June 21, 2004 generally described a structure by which Canadian retail investors could gain access to a fund of funds managed by various hedge fund managers and an overlay program representing up to 15% of the assets invested in derivatives based strategies.

[286] The offering memorandum describes the investment objective generally as follows:

> ***Investment Objective***
>
> The broad investment objective of each fund is to obtain a positive absolute return that is uncorrelated with traditional investment strategies by allocating investments to multi-manager alternative investment portfolios, proprietary index timing and futures trading strategies. Each Fund described in this offering memorandum has its own specific objectives …
>
> *Exhibit 3, tab 1* – Olympus United Funds Offering Memorandum, June 21, 2004 at 8.

[287] The specific investment objective and strategy differed among the various funds. The offering memorandum provides the following descriptions in respect of the Olympus United Univest II Fund represented by the Class I Redeemable Convertible Non-Voting Shares:

> ***Investment Objective***
>
> The Funds' investment objective is to provide a superior yield while maintaining a low degree of volatility and correlation relative to major global markets. The Funds attempt to achieve this objective through allocation of assets to both traditional and non-traditional strategies.
>
> ***Investment Strategy***
>
> The portfolio of the Funds at any one time may be comprised of investments in managed accounts, private placements, bond arbitrage, convertible bonds and preference shares, mortgage-backed securities, debentures, foreign exchange contracts, hedge funds, United States and Canadian government treasury bills, commodities, futures, options, equities, money market instruments, and other interest-bearing obligations including interests in other investment companies, funds and pools. Diversification in types of securities, advisors and strategies will seek to normalize returns and minimize risk. Investments will typically be made in established investment funds and advisors with proven performance growth.
>
> …

The Olympus United Hedge Overlay Program

> The Olympus United Hedge Overlay Program (the "Overlay Program") is a proprietary strategy designed to reduce portfolio risk and volatility as well as to enhance the returns of the Portfolio managers. The Overlay Program is an allocation of up to approximately 15% of the assets of the Fund that is further allocated among a team of additional Portfolio Managers specializing in long/short investments in global equity, fixed income and commodity derivative instruments. The current team of such Portfolio Managers consists of Mondiale Asset Management Ltd., TWR Management Corp. and NAM Canada.
>
> *Exhibit 3, tab 1* – Olympus United Funds Offering Memorandum, June 21, 2004, Appendix F at 1.

[288] The Class I shares represented approximately 70% of the issued capital of Olympus Univest on September 30, 2003.

[289] While the offering memorandum contained references to the potential use of leverage by the various hedge fund managers, it made no reference to the type or extent of the leverage that was inherent in the SOHO Option nor the fact that the leverage would be collateralized by investments in private companies.

[290] Mosaic Composite's investment strategy was not that of an investment in a portfolio of hedge funds as described in the offering memorandum. Rather, it participated in a leveraged instrument in a portfolio of hedge funds with an indirect investment in a portfolio of private companies. Massi testified that the non-hedged assets of Mosaic Composite represented $307 million, which were primarily investments in the Channel Funds.

[291] Even if we accept that the leverage inherent in the SOHO Option was contemplated by the offering memorandum, the allocation of funds to investments in private companies as collateral dramatically changed the nature of the investment. If the collateral funds had been invested in less risky assets such as government treasuries or money market funds, the leverage may have impacted returns, but might not have impacted the investment objective.

[292] The fact remains that because of the dissipation of investor funds at various points throughout the Norshield Investment Structure, only a small portion of investor funds made their way to the hedge fund managers. Massi testified that "[in] later years, most of the money never went down to the bank. It stayed at the fund level" (Hearing Transcript, November 4, 2008, p. 144). Consequently, the use of leverage was required in order to provide the hedge fund managers with sufficient funds and to ensure that a diverse set of assets could be achieved.

4. Analysis – issuer of the offering memorandum

[293] Olympus United Group marketed shares of Olympus United Funds to investors, but the offering memorandum was that of Olympus United Funds and it was Olympus United Funds that was required to deliver its offering memorandum to the Commission, not Olympus United Group.

[294] Liability under s. 122(1)(b) attaches to persons or companies that make misleading or untrue statements or fail to state a fact that is required to be stated so as to not make a statement misleading. However, Staff's allegation was against Olympus United Group only. Statements in the offering memorandum were made by Olympus United Funds, and not by Olympus United Group.

[295] Although Olympus United Group was involved in the marketing of securities for which it is alleged that the offering memorandum was misleading, s. 122(1)(b) does not apply to the allegation of misconduct by Olympus United Group in this situation.

5. Conclusion

[296] We find that the offering memorandum issued by Olympus United Funds was materially misleading with respect to the actual investment structure, the type of leverage used and the risks involved in the leverage. Information on the investment structure at the Mosaic Composite level and below should have been disclosed to investors.

[297] As the issuer of the offering memorandum, Olympus United Funds would be the entity to which liability would attach under s. 122(1)(b). However, Olympus United Funds is not a Respondent in this matter.

[298] Staff's allegation regarding the offering memorandum is levelled at Olympus United Group, but the offering memorandum is that of Olympus United Funds. In the circumstances, Staff's allegation against Olympus United Group is not made out.

F. As a consequence of their positions of seniority and responsibility and in their positions as officers and directors of Olympus United Group, did Xanthoudakis and Smith authorize, permit or acquiesce in the alleged violations of the requirements of Ontario securities laws and breaches of duty discussed in E, above?

[299] Staff's allegation against Xanthoudakis and Smith regarding the offering memorandum requires a breach of s. 122(1)(b) of the Act by Olympus United Group. As explained above, although we find that the offering memorandum of Olympus United Funds was misleading, we find that there was no breach of s. 122(1)(b) of the Act by Olympus United Group. Therefore, we cannot find that Xanthoudakis and Smith breached Ontario Securities law in respect of the misleading offering memorandum of Olympus United Funds as a consequence of their positions of seniority and authority or as officers and directors of Olympus United Group.

G. Did Xanthoudakis and Smith knowingly make statements and provide evidence and information to Staff that was materially misleading and/or fail to state facts which were required to be stated in an effort to hide violations of Ontario securities laws?

[300] Staff allege that Xanthoudakis and Smith knowingly made statements and provided evidence and information to Staff that was materially misleading and failed to state facts which were required to be stated in an effort to hide violations of Ontario securities laws, contrary to subsection 122(1)(a) of the Act.

1. Submissions

Staff

[301] Staff submit that Xanthoudakis and Smith materially misled them regarding the movement of funds through the Norshield Investment Structure. According to Staff, Xanthoudakis and Smith completely failed to inform them of the existence of the Channel Funds during their on-site compliance review at NAM's offices. Staff assert that Xanthoudakis and Smith led them to believe that the majority of the funds invested were placed with US hedge fund managers chosen by NAM through RBC, or in in-house tactical trading and managed futures accounts managed by NAM. According to Staff, they made no mention of a collateral portfolio of less liquid securities used to support the structure.

[302] In addition to this failure to inform Staff of the Channel Funds and their role, Staff submit that Smith directed the alleged independent director of Channel Funds to "play dumb" when questioned by Staff.

[303] Staff state that, at a minimum, registrants have an obligation to disclose what is being done with investor money and where it has gone. They submit that Xanthoudakis and Smith misled Staff regarding this information.

[304] According to Staff, the fact that the structure is complex is not an excuse for the failure to disclose required information to the Commission. Staff submit that there is an obligation on people responsible for an investment structure to be able to clearly and concisely explain to the regulator how it works and how client money flows.

[305] Staff submit that Xanthoudakis's and Smith's decision to limit their description of the Norshield Investment Structure to the level of the SOHO Option is materially misleading and contrary to Ontario securities law.

Xanthoudakis and Smith

[306] Xanthoudakis and Smith submit that they did not intend to mislead Staff regarding the Channel Funds or the investee companies at the Mosaic Composite level.

[307] They argue that it would be "absurd" to think that the assets supporting the SOHO Option could be concealed from a regulator in light of the way the structure worked and the exposure provided by the RBC platform, and that the Receiver (then as the Monitor) became well aware of the Channel Funds shortly after Staff completed its on-site compliance review.

[308] Xanthoudakis and Smith note that it was NAM that first approached the Commission, and not the other way around. They submit that NAM approached the Commission because its management was essentially in a crisis mode dealing with other litigation and they were concerned about the liquidity crisis they were experiencing. Xanthoudakis and Smith further submit that the Norshield Investment Structure is complex, so there was a lot to explain and that NAM was in crisis mode at the time of the on-site compliance review. They submit that Xanthoudakis expected that he would meet with Staff again after the initial on-site interview.

[309] In response to Staff's assertions that Xanthoudakis and Smith have not provided Staff and the Receiver with information on the location of investor funds, they submit that it has become difficult for them to access the necessary information in order to provide an explanation or an accounting since they have been removed from the organization and the Receiver has taken over.

[310] Xanthoudakis and Smith submit that an inference that the Respondents did not cooperate with Staff should not be drawn from the fact that Staff and the Receiver have been unable to complete their inquiry into the flow of investor funds. They provide evidence that Smith offered his services to assist the Receiver on a consulting basis to help track the funds and obtain the cooperation of individuals in control of Mosaic Composite. Xanthoudakis and Smith submit that no adverse inference should be drawn from the fact that Staff and the Receiver rejected Smith's offer of assistance.

2. The Law

[311] Subsection 122(1)(a) of the Act reads as follows:

> **122. (1) Offences, general –** Every person or company that,
>
> (a) makes a statement in any material, evidence or information submitted to the Commission, a Director, any person acting under the authority of the Commission or the Executive Director or any person appointed to make an investigation or examination under this Act that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading;
>
> …
>
> is guilty of an offence and on conviction is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.

3. Analysis

[312] According to Radu's testimony on May 9, 2005, prior to an on-site review by Staff, Smith, Karine Simoes and counsel for NAM voluntarily met with Staff in Toronto to explain the halt in redemptions.

[313] Staff subsequently conducted an unannounced on-site compliance review at NAM's offices in Montreal from May 16, 2005 to May 19, 2005. During this review Staff interviewed Smith two separate times, on May 17, 2005 and May 19, 2005 and interviewed Xanthoudakis once on May 19, 2005.

[314] In total, four Staff investigators participated in the on-site compliance review in Montreal. Their handwritten notes, made at the time of the examinations or soon after, were put into evidence. In addition, two of Staff's investigators who were present at the on-site compliance review testified before us.

[315] Walz testified that neither Xanthoudakis nor Smith informed Staff that Mosaic Composite had any investments in Canadian private equities, nor that the Norshield Investment Structure was supported by anything other than what was in the managed accounts.

[316] Nor were the investigators informed of the role of the Channel Funds. Walz testified that it was his understanding that there was an overlay program whereby up to 15 percent of investors' monies would be invested with a third party or with NAM to reduce the volatility and risk to investments. He testified that he was led to believe that the Olympus United Funds was a fund of funds where investments in each share class of Olympus United Funds would flow to Olympus Bank, which would fulfill the specific investment objective of each share class.

[317] The notes by Staff members that were put into evidence corroborate the above. A flowchart of the Norshield Investment Structure created shortly after the on-site review by a member of Staff makes no reference to the Channel Funds.

4. Conclusion

[318] We accept that NAM was in "crisis mode" at the time of the on-site compliance review, as described by counsel for Xanthoudakis and Smith, and that Xanthoudakis offered to meet with Staff again at the conclusion of his examination on May 19, 2005. However, the role of the Channel Funds in the Norshield Investment Structure was crucial, and yet it was undisclosed to Staff. As discussed above, the Channel Funds supported the significant leverage in the SOHO Option, and sustained the NAV calculations.

[319] Despite the corporate complexity that relates to tax and legal issues, the investment premise is not particularly complex to describe and we do not accept the complexity argument put forth by the Respondents.

[320] This is not a situation where Xanthoudakis and Smith mentioned the Channel Funds, but failed to describe them in full detail, given the circumstances. They did not mention their existence at all to Staff. We find that this failure to mention the

Channel Funds at all during Staff's four day on-site review materially misled Staff, and was thus contrary to subsection 122(1)(a) of the Act.

H. Was the course of conduct engaged in by Xanthoudakis, Smith and Kefalas abusive to the integrity of Ontario's capital markets, did it compromise the integrity of Ontario's capital markets, or was it otherwise contrary to the public interest?

[321] Staff allege that the conduct of Xanthoudakis, Smith and Kefalas was abusive to the integrity of Ontario's capital markets and contrary to the public interest.

1. Submissions

Staff

[322] Staff submit that Xanthoudakis and Smith acted contrary to the public interest in their failure to inform Staff of essential components of the Norshield Investment Structure, their failure to keep compliant books and records, their provision of misleading information in the offering memorandum for Olympus United Funds and in their breach of their duty to deal fairly, honestly and in good faith with investors.

[323] Staff submit that Kefalas's failure to fulfill his responsibilities as the designated Compliance Officer and Ultimate Responsible Person for NAM was contrary to the public interest.

Xanthoudakis and Smith

[324] As outlined above, Xanthoudakis and Smith contend that they acted properly. They submit that their actions with respect to Staff, investors, the preparation of the offering memorandum, and books and records was not contrary to the public interest.

Kefalas

[325] Kefalas submits that his actions were not contrary to the public interest. He contends that he was never aware of having a compliance role in NAM and that he signed the Commission filings at the behest of NAM's legal counsel, who handled all compliance issues. He submits that between May 31, 2000 and February 13, 2003 he was never called upon to fulfill the role of Compliance Officer for NAM.

[326] Kefalas submits that his conduct was at most negligent, and was not designed for his own gain at the expense of investors and the integrity of Ontario's capital markets. Kefalas therefore claims that he poses no potential for future harm to the public.

2. The Law

[327] The Commission has a public interest jurisdiction to prevent likely future harm to Ontario's capital markets (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Her Majesty in Right of Quebec*, [2001] 2 S.C.R. 132 at para. 42). The scope of the Commission's discretion in defining the public interest is limited by the general purposes of the Act (*Gordon Capital Corp. v. Ontario (Securities Commission)* (1991), 14 O.S.C.B. 2713 (Ont. Ct. J.) at para. 37).

3. Analysis

[328] As noted earlier, from May 31, 2000 to February 19, 2003, Kefalas was NAM's designated Compliance Officer, and from August 25, 2004 to November 19, 2004 he was the Ultimate Responsible Person.

[329] Kefalas testified before us, and acknowledged that he had signed the documents filed with the Commission making him NAM's designated Compliance Officer and Ultimate Responsible Person for certain periods, but stated that he did not believe himself to be the acting compliance officer at NAM:

> I'm not here to contest the signature, my signature on the documents that are present and filed with the OSC, but my belief at the time and still is, or is currently looking back, that Miss Karine Simoes was the acting compliance person for the firm.
>
> In fact, I cannot recall any instances where other personnel of the firm came up to me to ask me to fulfill any kind of compliance issues or to give them any opinions on any compliance related issues.
>
> Hearing Transcript, November 13, 2008, p. 125.

[330] Only a small fraction of the $159 million invested by Canadian retail investors will be recovered, according to the Receiver. The fact that Xanthoudakis and Smith have not provided any explanation to the Receiver for that deficit deeply concerns us, and is conduct abusive to the integrity of the capital markets. Given their positions of seniority in the Norshield Investment Structure, as well as their positions as officers and directors of NAM and Olympus United Group, they were responsible for accounting for funds invested by Canadian retail investors.

4. Conclusion

[331] The roles of a Compliance Officer and an Ultimate Responsible Person are crucial to the regulation of the capital markets. By registering with the Commission as a Compliance Officer and Ultimate Responsible Person, Kefalas accepted certain responsibilities. Those who accept such roles are required to understand the seriousness of their undertakings. Consequently we find that Kefalas' failure to fulfill his responsibilities as a Compliance Officer and Ultimate Responsible Person constitutes conduct contrary to the public interest.

[332] Mitigating factors, such as his belief that NAM's legal counsel, Karine Simoes, was in practice the person responsible for compliance in the firm, or the fact that he was never asked by NAM to fulfill any compliance function, can be put to a hearing panel considering potential sanctions against Kefalas.

[333] As a result of this failure to account for funds and our findings in relation to the other allegations, discussed above, we find that Xanthoudakis's and Smith's conduct was contrary to the public interest.

III. CONCLUSION

[334] We find that the Respondents were in breach of their obligations under Ontario securities laws, for all the reasons discussed in our analysis above:

(i) NAM, Olympus United Group, Xanthoudakis and Smith failed to deal fairly, honestly and in good faith with investors, contrary to subsections 2.1(1) and 2.1(2) of OSC Rule 31-505;

(ii) NAM and Olympus United Group failed to keep and maintain proper books and records in relation to the Norshield Investment Structure, contrary to section 19 of the Act and section 113 of Ontario Regulation 1015 of the Act;

(iii) as a consequence of their positions of seniority and responsibility and in their positions as officers and directors of NAM and Olympus United Group, Xanthoudakis and Smith authorized, permitted and acquiesced in the breaches of Ontario securities laws in (i) and (ii), above;

(iv) Xanthoudakis and Smith knowingly made statements and provided evidence and information to Staff that was materially misleading and failed to state facts which were required to be stated in an effort to hide violations of Ontario securities laws, contrary to clause (a) of subsection 122(1) of the Act; and

(v) Xanthoudakis, Smith and Kefalas engaged in a course of conduct that was abusive to and compromised the integrity of Ontario's capital markets and was contrary to the public interest.

[335] The parties shall contact the Secretary's office within 10 days to schedule a hearing to determine the appropriate sanctions.

DATED at Toronto this 8th day of March, 2010.

"Wendell S. Wigle"
Wendell S. Wigle, Q.C.

"David L. Knight"
David L. Knight, F.C.A.

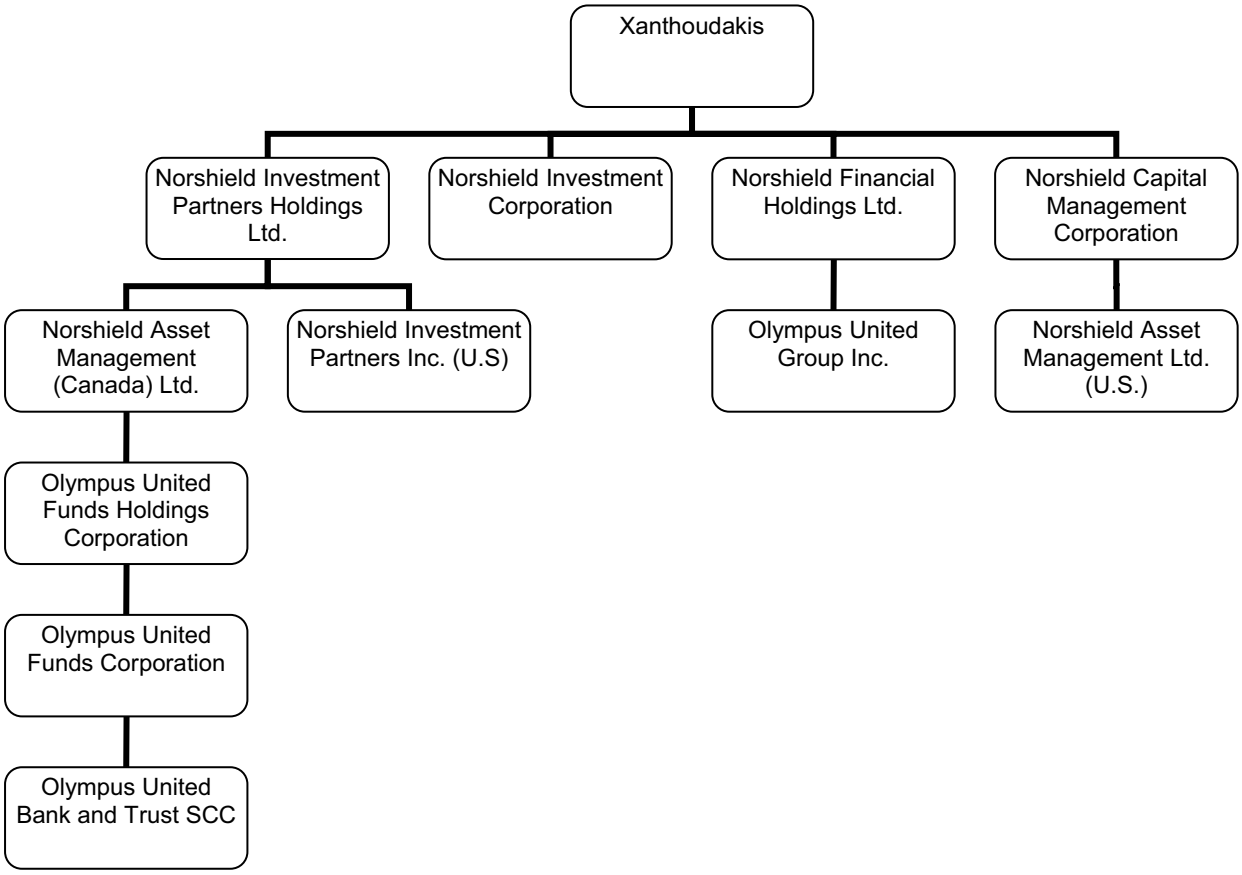
"Margot C. Howard"
Margot C. Howard, CFA

APPENDIX A
Some Entities Referred to in the Decision

[1] The investment structure considered in this Decision involved a large number of corporate entities and significant transactions with others. To provide some background to our analysis, these entities are briefly described below.

Corporate Entities Fully within the Norshield Investment Structure

[2] Xanthoudakis owned, either directly or indirectly, many of the entities within the Norshield Investment Structure, including the eleven described below.



Norshield Financial Group ("NFG") is a trade name for the overall corporate structure and does not appear to be an incorporated entity. However, in a June 2004 investment proposal submitted to TD Bank Financial Group, NFG describes itself as a Delaware corporation based in Chicago that is a subsidiary of the Canadian corporation Norshield Investment Partners Holdings Inc. According to a chart provided to Staff during an on-site compliance review at Norshield Asset Management (Canada) Ltd.'s offices in Montreal, NFG included Norshield Financial Holdings Ltd., Olympus United Group Inc., Norshield Investment Partners Holdings Ltd., Norshield Asset Management (Canada) Ltd., Olympus United Funds Holding Corporation, Olympus United Funds Corporation, Olympus United Bank & Trust SCC and Norshield Investment Partners Inc. (U.S.A.). All of the entities in NFG are listed on the chart as being directly or indirectly owned in their entirety by Xanthoudakis. An earlier document also includes Norshield Capital Management Corporation, Norshield Investment Corporation and Norshield Asset Management Ltd. (U.S.) in the NFG.

Norshield Investment Partners Holdings Ltd. ("Norshield Partners") is wholly owned by Xanthoudakis. According to an organization chart provided to the Receiver, Norshield Partners is the owner of Norshield Asset Management (Canada) Ltd. and of Norshield Investment Partners Inc.

Norshield Asset Management (Canada) Ltd. ("NAM") provides portfolio management services to Olympus United Funds Corporation. NAM is a Canadian corporation and it appears that NAM is wholly owned by Norshield Partners or Norshield Capital Management Corporation, both corporations owned by Xanthoudakis. NAM previously carried on business as GIC

Commodity Advisors of USA, GIC Asset Management Ltd., and Norshield Asset Management Ltd. NAM's officers include Xanthoudakis, Smith and Kefalas and its directors include Xanthoudakis and Kefalas.

Olympus United Funds Holdings Corporation owns Olympus United Funds Corporation and is owned by NAM. Smith was President and Chief Executive Officer and a director and officer of this corporation.

Olympus United Funds Corporation ("Olympus United Funds") offered a hedge fund product that enabled investors to pursue particular investment strategies. It held 100 percent of the voting shares of Olympus United Bank and Trust SCC. Non-voting shares in Olympus United Funds were marketed to Canadian retail investors by Olympus United Group Inc. and the funds invested were managed by NAM. The $159 million invested in the Norshield Investment Structure by Canadian retail investors was invested through Olympus United Funds. Smith was a director and the President and CEO of Olympus United Funds. Prior to its name change in 2003, Olympus United Funds was incorporated as First Horizon Holdings Ltd.

Olympus United Bank and Trust SCC ("Olympus Bank") is a licensed offshore bank based in Barbados. It is a subsidiary of Olympus United Funds and a part of NFG. Smith was a director and the chairman and CEO of Olympus Bank. Prior to 2003, Olympus Bank operated as First Horizon Bank (Barbados) Inc. Olympus Bank is also the investment manager to Olympus Univest Ltd.

Norshield Investment Partners Inc. is a NFG corporation wholly owned by Xanthoudakis through Norshield Partners. It was incorporated in the United States and maintained an office in Chicago. Xanthoudakis was a director.

Norshield Investment Corporation ("NI Corporation") is a corporation in the NFG that acts as a nominee to hold equity interests in publicly traded and private equities on behalf of offshore investors. Xanthoudakis is a director and officer as well as the owner of NI Corporation. NI Corporation now operates under the name Honeybee Software Technology Ltd.

Norshield Financial Holdings Ltd. ("Norshield Financial Holdings") is wholly owned by Xanthoudakis, who is also a director and officer of the corporation. It is a part of the NFG and owns Olympus United Group Inc.

Olympus United Group Inc. ("Olympus United Group") is a Canadian federal corporation registered as a mutual fund dealer and limited market dealer. It provided marketing services to Olympus United Funds. It is wholly owned by Norshield Financial Holdings, which is owned by Xanthoudakis. Xanthoudakis was the President and CEO and a director of Olympus United Group. Smith is an officer of Olympus United Group. From 1994 until May 2002 Olympus United Group carried on business as Norshield Fund Management Ltd.

Norshield Capital Management Corporation ("NCMC") is owned by Xanthoudakis. Corporate records, including a July 2001 organization chart and NAM's OSC registration documents filed in December 1999 indicate that NAM is a subsidiary of NCMC. NCMC was a corporation in the NFG that acted as a nominee to hold equity interests in publicly traded and private equities on behalf of offshore funds.

Norshield Asset Management Ltd. (U.S.) is an American company that provides risk management and asset allocation services. It is owned by NCMC.

Other Entities Associated with the Norshield Investment Structure

[3] Other entities that may not have been owned wholly or in part by the Respondents, but that were involved in the overall Norshield Investment Structure are described below. They include corporations through which investment funds flowed, entities that were involved in transactions related to the Norshield Investment Structure, and entities with an investment management role.

BICE International Inc. ("BICE International") is a Bahamian corporation and apparently the sole shareholder in Olympus Univest Ltd. BICE International bought Emerald Key Management Ltd. from the Channel Funds in July 2003. BICE International is listed as owning management shares in Mosaic Composite (U.S.) Inc., along with Orion Trust.

Olympus Univest Ltd. ("Olympus Univest") is a Bahamian hedge fund that received investment funds both directly from investors, and through Olympus Bank. As of 2003, Olympus Univest had direct investments in nine strategy-specific funds, which in turn invested in other funds. Some of these funds are listed below. Smith was a director of Olympus Univest. Olympus Univest was dissolved in May 2005 as a result of redemption requests that it was unable to satisfy.

Olympus Univest Global Fund Ltd. was a European fund that operated out of the Cayman Islands and was listed on the Irish Stock Exchange. NAM was its investment manager and Xanthoudakis was one of its directors.

Olympus Univest Convertible Arbitrage Fund Ltd. and **Univest High Yield Fund Ltd.** (together, the "Univest Purchasers") are investment entities of Univest Global Fund. They are Cayman Islands entities, for which Xanthoudakis is one of the directors and NAM is the investment manager.

Olympus Univest Equity Long Short Fund is a Cayman Islands entity for which Xanthoudakis is one of the directors and NAM is the investment manager.

Olympus Univest Multi-Strategy II Fund ("MS-II") is a Cayman Islands entity for which Xanthoudakis is one of the directors and NAM and Norshield Investment Partners Inc. were each listed as the investment manager in different documents.

Olympus Univest Fixed Return Fund Ltd. was a Bahamian fund set up in 2000 as a mirror fund for the Balanced Return Fund Limited. It was wound down in 2003 with all shares being exchanged for shares in the Balanced Return Fund Limited. Univest Fixed Return Fund Ltd. was an investee of Emerald Key Advisors Ltd.

Olympus Balanced Return Fund Limited was a Bahamian fund that formerly operated as Univest Entry Fund Ltd. Shares in this fund were held by Emerald Key Management Ltd. Norshield International was the Business Manager prior to September 2002 when Emerald Key Management became the Fund Manager and Emerald Key Advisors became the Distribution Agent.

Cardinal International Funds Services Ltd. ("Cardinal") is a Bahamian entity and was the Administrator, Registrar and Transfer Agent for Mosaic Composite (U.S.) Inc. and Olympus Univest.

Commax Management is an entity that received payments from Mosaic Composite (U.S.) Inc.

Emerald Key Advisors Inc. is a financial advisor for international alternative funds of funds and is incorporated in the Bahamas.

Comprehensive Investor Services Ltd. ("CIS"), which has operated as Mendota Capital, Inc. since its merger with the company in January 2005, is the beneficiary of Liberty Trust. CIS received unexplained payments from Olympus Bank and Mosaic Composite totalling over $79 million.

Liberty Trust, formerly CIS Trust, is a trust with **Longview Associates** as the trustee and Thomas Muir as the settlor. Liberty Trust owns 100 percent of the equity voting shares of Mosaic Composite (U.S.) Inc.

Mosaic Composite (U.S.) Inc. ("Mosaic Composite") is an entity originally incorporated and domiciled in the Bahamas and subsequently domiciled in the United States. Smith was a director of Mosaic Composite before it became domiciled in the United States in 2003. Mosaic Composite's assets and liabilities were managed by Norshield Asset Management International Inc. and Cardinal was its Administrator, Registrar and Transfer Agent. Mosaic Composite held portfolios of hedged assets, which consisted of the SOHO Option, and non-hedged assets, which included investments in the Channel Funds.

RBC SOHO Option (the "SOHO Option") is an option purchased by Mosaic Composite from the Royal Bank of Canada.

Channel Fixed Income Fund. Ltd., Channel F.S. Fund Ltd., Channel Diversified Private Equity Fund Ltd., and Channel Technology Fund Ltd. (together, the "Channel Funds") are Bahamian corporate entities holding investments primarily in Canadian private companies. They were originally incorporated as Tristar Funds.

AMT International Mining Corp. was a Channel Funds investee. Smith was an officer and director of AMT. As of December 1999, Xanthoudakis owned a 31% interest in AMT.

BDP Retirement Homes Inc. was a Channel Funds investee. Smith was on the BDP board of directors.

C-MAX Advantage Fund Ltd. was Bahamian corporation that was a Channel Funds investee. Norshield International Limited owned shares in the corporation.

Emerald Key Management Ltd. was a Channel Funds investee until the Channel Funds sold their interest in it to BICE International in September 2002.

Globe-X Management Ltd., Globe-X Canadiana Ltd., Globe-X Enhanced Yield Fund, Globe-X International, and Globe-X Asset Appreciation (together, the "Globe-X Entities") were Bahamian corporations in which the Channel Funds invested.

Lonald Holdings N.V. was a Channel Funds investee.

Microslate Inc. was a Channel Funds investee, for which Smith was on the board of directors.

Mount Real Innovation Centre Inc. was a Channel Funds investee.

Niocan Inc. was a Channel Funds investee in which Xanthoudakis had a significant holding (16% in December 1999) and Smith was an officer / director.

Oceanwide.com Inc. was a Channel Funds investee for which Smith was on the board of directors.

Olympus United Holdings Ltd. was a Channel Funds investee.

Vezina Composites Inc. was a Channel Funds investee for which Smith was on the board of directors.

Tessera Calisto Fund Ltd., Tessera Leda Fund Ltd., and Tessera Adtrastea Fund Ltd. (together, the "Tessera Funds") are funds created and run by Mosaic Composite.

Mendota Capital, Inc. is a Minnesota corporation that merged with CIS in January 2005.

Norshield Asset Management International Inc. is the investment manager for Mosaic Composite.

Norshield International Limited owned shares in C-MAX Advantage Fund Ltd.

Orion Trust was established to avoid direct ownership of shares by Olympus Bank, which is the trustee for Orion Trust. Orion Trust owns the management shares in Mosaic Composite, with the beneficiary of these shares being a Mosaic fund.

Mount Real Corporation owns Mount Real Financial Management Services Corporation and is a corporation that Xanthoudakis formerly had a 14% interest in as of December 1999.

Mount Real Financial Management Services Corporation ("Mount Real") is a wholly owned subsidiary of Mount Real Corporation. It did valuations of the Channel Funds debenture investments. Lino Matteo controls Mount Real, and Xanthoudakis is a former director of the company.

Real Vest Investment Ltd. is an entity related to Mount Real.

Sterling Leaf Income Trust is an entity related to Mount Real.

Silicon Isle entered into an escrow agreement with Hart, Saint-Pierre relating to a MS-II share transaction. Smith signed as a representative of Silicon Isle on a direction of payment relating to this agreement.

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
Campbell Resources Inc.	23 Feb 10	05 Mar 10	05 Mar 10	
Toxin Alert Inc.	09 Mar 10	22 Mar 10		
ExelTech Aerospace Inc.	10 Mar 10	22 Mar 10		
Kermode Exploration Ltd	06 May 08	16 May 08	16 May 08	03 Mar 10

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
Toxin Alert Inc.	06 Nov 09	18 Nov 09	18 Nov 09	09 Mar 10	09 Mar 10

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
Coalcorp Mining Inc.	07 Oct 09	19 Oct 09	19 Oct 09		
Toxin Alert Inc.	06 Nov 09	18 Nov 09	18 Nov 09	09 Mar 10	09 Mar 10
Axiotron Corp.	12 Feb 10	24 Feb 10	24 Feb 10		
RoaDor Industries Ltd.	—	24 Feb 10	24 Feb 10		

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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 SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
01/21/2010	7	Automated Benefits Corp. - Common Shares	17,648.00	135,761.00
02/26/2010	1	Bayfield Ventures Corp. - Flow-Through Shares	300,000.00	N/A
02/22/2010	1	Belmont Resources Inc. - Common Shares	5,000.00	N/A
02/24/2010	47	Black Marlin Energy Limited - Receipts	30,108,500.00	N/A
01/19/2010	36	Canadian Superior Energy Inc. - Common Shares	59,500,603.76	114,424,238.00
01/01/2009 to 12/31/2009	2	Canso Bank Loan Fund - Units	456,560.99	N/A
01/01/2009 to 12/31/2009	14	Canso Canadian Bond Fund - Units	9,039,933.00	N/A
01/01/2009 to 12/31/2009	1	Canso Canadian Equity Fund - Units	4,000.00	N/A
01/01/2009 to 12/31/2009	2	Canso Corporate and Infrastructure Debt Fund - Units	2,008,000.00	N/A
01/01/2009 to 12/31/2009	15	Canso Corporate Bond Fund Class C - Units	5,604,450.00	N/A
01/01/2009 to 12/31/2009	1	Canso Corporate Bond Fund, Class F - Units	301,680.00	N/A
01/01/2009 to 12/31/2009	33	Canso Corporate Bond Fund, Class O - Units	69,753,468.34	N/A
01/01/2009 to 12/31/2009	3	Canso Credit Opportunities Fund - Units	125,000.00	N/A
01/01/2009 to 03/31/2009	1	Canso Harrier Fund - Units	915,000.00	N/A
01/01/2009 to 12/31/2009	3	Canso Hurricane Fund - Units	51,314.51	N/A
01/01/2009 to 12/31/2009	7	Canso India Fund - Units	96,638.33	N/A
01/01/2009 to 12/31/2009	1	Canso Private Debt Fund - Units	6,547,732.28	N/A
01/01/2009 to 12/31/2009	1	Canso Salvage Fund - Units	67,489.52	N/A
01/01/2009 to 12/31/2009	2	Canso Short Term and Floating Rate Income Fund - Units	8,020.50	N/A
02/18/2010 to 02/19/2010	32	CareVest Blended Mortgage Investment Corporation - Preferred Shares	530,926.00	530,926.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
02/18/2010 to 02/19/2010	27	CareVest Capital Blended Mortgage Investment Corporation - Preferred Shares	1,857,787.00	1,857,787.00
02/18/2010 to 02/19/2010	9	CareVest Capital First Mortgage Investment Corporation - Preferred Shares	218,415.00	218,415.00
01/01/2009 to 12/31/2009	2	Copernican British Banks Fund - Options	247,735.80	N/A
01/01/2009 to 12/31/2009	2	Copernican International Premium Dividend Fund - Options	144,222.23	N/A
01/01/2009 to 12/31/2009	2	Copernican World Banks Income and Growth Trust - Options	86,258.07	N/A
02/28/2009 to 11/30/2009	5	Core Canadian Equity Fund - Units	247,815.97	29,346.00
02/09/2010 to 02/12/2010	12	Donner Metals Ltd. - Units	1,043,462.43	2,196,763.00
02/19/2010	1	Douglas Emmett Partnership X, L.P. - Limited Partnership Interest	78,150,000.00	0.00
02/24/2010	1	Edgeworth Mortgage Investment Corporation - Preferred Shares	23,660.00	N/A
01/01/2009 to 12/31/2009	2	European Premium Dividend Fund - Options	90,549.38	N/A
02/19/2010 to 02/22/2010	2	First Leaside Fund - Trust Units	41,000.00	41,000.00
02/17/2010 to 02/22/2010	10	First Leaside Fund - Trust Units	261,800.00	261,800.00
01/22/2009 to 12/30/2009	6	GIIC Global Fund - Units	69,669,440.02	N/A
01/01/2009 to 12/31/2009	2	Global Banks Premium Income Trust - Options	95,262.95	N/A
02/19/2010	1	Gryphon EuroPac Fun - Units	1,248,500.00	N/A
01/05/2009 to 12/30/2009	288	Highstreet Balanced Fund - Units	33,030,576.71	N/A
01/02/2009 to 12/31/2009	114	Highstreet Canadian Equity Fund - Units	82,003,470.00	N/A
01/02/2009 to 12/23/2009	17	Highstreet Canadian Growth Fund - Units	1,149,995.13	N/A
01/15/2009 to 12/23/2009	15	Highstreet Canadian Small Cap Fund - Units	81,456.60	N/A
01/06/2009 to 12/31/2009	19	Highstreet International Equity Fund A - Units	6,857,617.39	N/A
01/06/2009 to 12/21/2009	134	Highstreet Money Market Fund - Units	58,237,646.91	N/A
05/06/2009 to 06/17/2009	3	Highstreet US Small Cap Fund - Units	211,960.49	N/A

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
01/06/2009 to 12/31/2009	25	Highstreet U.S. Equity Fund - Units	11,006,153.32	N/A
01/01/2009 to 12/15/2009	2	International Financial Income and Growth Trust - Options	42,681.31	N/A
02/25/2010	5	Investicare Seniors Housing Corp. - Units	143,750.00	N/A
01/29/2009 to 12/30/2009	49	JC Clark Commonwealth Patriot Trust - Trust Units	2,839,764.00	18,422.36
01/29/2009 to 12/30/2009	56	JC Clark Focused Opportunities Fund - Trust Units	3,536,439.00	26,099.67
01/29/2009 to 12/09/2009	90	JC Clark Preservation Trust - Trust Units	13,083,241.00	115,791.95
02/22/2010	94	Kivalliq Energy Corp. - Units	2,000,000.00	N/A
02/25/2010	16	LeBoldus Capital Inc. - Common Shares	200,000.00	2,000,000.00
01/09/2009 to 12/31/2009	583	Letko Brosseau Balanced Fund - Units	103,814,195.79	10,475,662.78
01/09/2009 to 12/31/2009	118	Letko Brosseau Bond Fund - Units	25,676,955.93	2,466,072.29
01/30/2009 to 12/31/2009	25	Letko Brosseau Equity Fund - Global Investors - Units	1,627,802.37	215,220.04
01/09/2009 to 12/31/2009	325	Letko Brosseau Equity Fund - Units	41,904,823.24	4,638,001.69
01/30/2009 to 12/31/2009	16	Letko Brosseau Equity Fund Inc.- CL B (Non-Voting) - Units	3,958,608.21	457,472.34
01/09/2009 to 12/31/2009	161	Letko Brosseau International Equity Fund - Units	20,666,628.44	2,602,149.30
01/09/2009 to 12/31/2009	556	Letko Brosseau RSB Balanced Fund - Units	242,837,327.48	25,023,500.10
01/09/2009 to 12/31/2009	122	Letko Brosseau RSP Bond Fund - Units	34,588,839.22	3,314,918.87
01/09/2009 to 12/31/2009	234	Letko Brosseau RSP Equity Fund - Units	46,960,829.28	5,434,254.58
01/09/2009 to 12/31/2009	139	Letko Brosseau RSP International Equity Fund - Units	142,095,730.92	19,737,510.62
01/30/2009 to 12/31/2009	7	Letko Brosseau Social Integrity Fund - Units	8,823,534.95	1,012,804.00
02/22/2010	15	Mayen Minerals Ltd. - Common Shares	345,000.00	690,000.00
02/19/2010	48	McConachie Development Investment Corporation - Units	977,020.00	97,702.00
02/19/2010	47	McConachie Development Limited Partnership - Units	2,938,880.00	293,888.00
02/25/2010	22	Morrison Laurier Mortgage Corporation - Preferred Shares	327,000.00	N/A
02/24/2010	63	Mountain Boy Minerals Ltd. - Units	1,445,000.00	N/A

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
02/12/2010 to 02/19/2010	18	Oneworld Energy Inc. - Units	4,773,999.60	N/A
02/26/2010	1	Pier 21 WorldWide Equity Pool - Units	14,067,430.60	N/A
03/13/2009 to 12/31/2009	21	Redwood Long/Short Conservative Equity Fund - Units	576,653.83	65,598,186.00
12/31/2008 to 11/30/2009	14	Rosseau Limited Partnership - Limited Partnership Units	7,717,064.46	N/A
01/21/2010 to 01/28/2010	41	Solfotara Mining Corp. - Units	2,202,500.00	4,405,000.00
01/01/2009 to 12/31/2009	7	SSGA Australia Index Fund - Units	32,434,472.12	N/A
01/01/2009 to 12/31/2009	6	SSGA Austria Index Fund - Units	2,769,333.68	N/A
01/01/2009 to 12/31/2009	7	SSGA Belgium Index Fund - Units	5,183,372.43	N/A
01/01/2009 to 12/31/2009	8	SSGA Canadian Long Term Government Bond Index Fund - Units	117,714,991.00	N/A
01/01/2009 to 12/31/2009	2	SSGA Canadian Real Return Bond Index Fund - Units	32,248,408.81	N/A
01/01/2009 to 12/31/2009	17	SSGA Canadian Short Term Investment Fund - Units	329,672,811.73	N/A
01/01/2009 to 12/31/2009	7	SSGA Denmark Index Fund - Units	3,778,786.62	N/A
01/01/2009 to 12/31/2009	15	SSGA Enhanced Canadian Long Term Bond Fund - Units	145,216,750.81	N/A
01/01/2009 to 12/31/2009	36	SSGA Enhanced Canadian Universe Bond Fund - Units	549,342,652.18	N/A
01/01/2009 to 12/31/2009	6	SSGA Finland Index Fund - Units	5,154,967.98	N/A
01/01/2009 to 12/31/2009	7	SSGA France Index Fund - Units	43,770,522.95	N/A
01/01/2009 to 12/31/2009	6	SSGA Germany Index Fund - Units	34,375,565.83	N/A
01/01/2009 to 12/31/2009	7	SSGA Greece Index Fund - Units	3,491,564.79	N/A
01/01/2009 to 12/31/2009	4	SSGA Hong Kong Index Fund - Units	9,199,554.13	N/A
01/01/2009 to 12/31/2009	7	SSGA Ireland Index Fund - Units	2,412,089.20	N/A
01/01/2009 to 12/31/2009	6	SSGA Italy Index Fund - Units	15,541,072.93	N/A
01/01/2009 to 12/31/2009	6	SSGA Japan Index Fund - Units	89,399,243.32	N/A

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
01/01/2009 to 12/31/2009	2	SSGA MA Canadian Equity Index Plus Fund - Units	14,305,738.13	N/A
01/01/2009 to 12/31/2009	2	SSGA MA International Alpha Select Fund - Units	11,100,632.79	N/A
01/01/2009 to 12/31/2009	4	SSGA MA Nasdaq 100 Stock Index Futures Fund - Units	821,900.00	N/A
01/01/2009 to 12/31/2009	19	SSGA MSCI EAFE Index Fund - Units	293,595,017.38	N/A
01/01/2009 to 12/31/2009	6	SSGA Netherlands Index Fund - Units	10,966,272.33	N/A
01/01/2009 to 12/31/2009	6	SSGA New Zealand Index Fund - Units	383,020.88	N/A
01/01/2009 to 12/31/2009	6	SSGA Norway Index Fund - Units	3,951,588.89	N/A
01/01/2009 to 12/31/2009	3	SSGA Portugal Index Fund - Units	1,389,937.57	N/A
01/01/2009 to 12/31/2009	5	SSGA Singapore Index Fund - Units	5,491,597.06	N/A
01/01/2009 to 12/31/2009	4	SSGA Spain Index Fund - Units	18,200,381.68	N/A
01/01/2009 to 12/31/2009	7	SSGA Sweden Index Fund - Units	10,158,275.79	N/A
01/01/2009 to 12/31/2009	5	SSGA Switzerland Index Fund - Units	30,427,689.84	N/A
01/01/2009 to 12/31/2009	30	SSGA S&P 500 Index Fund for Canadian Pension Plans - Units	828,947,344.39	N/A
01/01/2009 to 12/31/2009	11	SSGA S&P 500 Index Fund Hedged to Canadian Dollards for Canadian Pension Plans - Units	94,253,969.70	N/A
01/01/2009 to 12/31/2009	2	SSGA S&P 500 Stock Index Futures Fund - Units	1,034,232.42	N/A
01/01/2009 to 12/31/2009	3	SSGA S&P/TSX Capped Equality Index Fund - Units	5,046,095.53	N/A
01/01/2009 to 12/31/2009	4	SSGA S&P/TSX Composite Index Fund - Units	65,730,168.97	N/A
01/01/2009 to 12/31/2009	7	SSGA United Kingdom Index Fund - Units	84,092,803.78	N/A
01/19/2010	4	Tri Origin Minerals Ltd. - Warrants	1,628,715.00	N/A
02/08/2010	10	W12BE Limited - Common Shares	1,580,000.00	790,000.00
02/19/2010	50	Walton AZ Mystic Vista Investment Corporation - Common Shares	760,080.00	76,008.00
02/19/2010	10	Walton AZ Mystic Vista Limited Partnership - Limited Partnership Units	967,080.20	92,517.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
02/19/2010	36	Walton AZ Verona Investment Corporation - Common Shares	537,640.00	53,764.00
02/19/2010	11	Walton AZ Verona Limited Partnership - Limited Partnership Units	900,776.82	86,174.00
02/19/2010	39	Walton TX Austin Land Investment Corporation - Common Shares	786,910.00	78,691.00
02/19/2010	9	XPV Water Fund Limited Partnership - Limited Partnership Units	33,098,400.60	31,764,300.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Allon Therapeutics Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$10,000,000 - *Common Shares - Price: $* per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1543138

Issuer Name:
Arcan Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 9, 2010
Offering Price and Description:
$• - • Common Shares - Issuable upon Exercise of • Subscription Receipts - Price: $2.50 per Subscription Receipt
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Wellington West Capital Markets Inc.
Paradigm Capital Inc.
Macquarie Private Wealth Inc.
Promoter(s):
-
Project #1544123

Issuer Name:
Artis Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Preliminary Short Form Prospectus dated March 3, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$50,062,500 - 4,450,000 Units - Price: $11.25 per Unit
Underwriter(s) or Distributor(s):
Canaccord Financial Ltd.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
Macquarie Capital Markets Canada Ltd.
Brookfield Financial Corp.
Promoter(s):
-
Project #1541706

Issuer Name:
Baja Mining Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated March 8, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
$500,000,000
Common Shares
Debt Securities
Warrants
Share Purchase Contracts
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1543509

Issuer Name:
BMO Aggressive Growth ETF Portfolio
BMO Balanced ETF Portfolio
BMO Canadian Tactical ETF Class
BMO Global Tactical ETF Class
BMO Growth ETF Portfolio
BMO Security ETF Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus and Annual Information Form dated March 3, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
BMO Guardian Agressive Growth ETF Portfolio Advisor Series, Series I and Series F
BMO Guardian Balanced ETF Portfolio Advisor Series, Series I and Series F
BMO Guardian Canadian Tactical ETF Class Advisor Series, Series I and Series F
BMO Guardian Global Tactical ETF Class Advisor Series, Series I and Series F
BMO Guardian Growth ETF Portfolio Advisor Series, Series I and Series F
BMO Guardian Security ETF Portfolio Advisor Series, Series I and Series F
Underwriter(s) or Distributor(s):
BMO Investments Inc.
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1542034

Issuer Name:
BMO Sustainable Climate Class
BMO Sustainable Opportunities Class
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated March 5, 2010 to Final Simplified Prospectuses and Annual Information Form dated November 3, 2009
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Investments Inc.
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1480290

Issuer Name:
BMO Canadian Tactical ETF Class
BMO Global Tactical ETF Class
Principal Regulator - Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectuses dated March 3, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
Series A securities
Underwriter(s) or Distributor(s):
BMO Investments Inc.
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1542027

Issuer Name:
BMO Sustainable Climate Class
BMO Sustainable Opportunities Class
Principal Regulator - Ontario
Type and Date:
Amendment #7 dated March 5, 2010 to Final Simplified Prospectuses and Annual Information Form dated May 8, 2009
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1402935

Issuer Name:
Canada Dominion Resources 2010 II Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated March 2, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$100,000,000 (maximum) - 4,000,000 Limited Partnership Units - Price: $25.00 per Unit
Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Promoter(s):
Canada Dominion Resources 2010 II Corporation
Goodman & Company, Investment Counsel Ltd.
Project #1541528

Issuer Name:
Canadian SWIFT Master Auto Receivables Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated March 4, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
Up to $1,700,000,000 of Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
General Motors Acceptance Corporation of Canada, Limited
Project #1542210

Issuer Name:
CMP 2010 II Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated March 2, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$100,000,000 (maximum) - 100,000 Limited Partnership Units - Price: $1,000 per Unit
Minimum Subscription: $5,000 (Five Units)
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Promoter(s):
CMP 2010 II Corporation
Goodman & Company, Investment Counsel Ltd.
Project #1541412

Issuer Name:
Dividend 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated March 2, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$ * (Maximum)
Up to * Preferred Shares and * Class A Shares - Price: $ * per Preferred Share and Price: $* per Class A Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Financial Ltd.
Dundee Securities Corporation
Promoter(s):
Quadravest Capital Management Inc.
Project #1541316

Issuer Name:
Dividend 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Amendment dated March 3, 2010 to Preliminary Short Form Prospectus dated March 2, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
$* (Maximum)
Up to * Preferred Shares and * Class A Shares - Price: $10.00 per Preferred Share and Price:$11.00 per Class A Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Financial Ltd.
Dundee Securities Corporation
Promoter(s):
Quadravest Capital Management Inc.
Project #1541316

Issuer Name:
DynamicEdge 2020 Class Portfolio
DynamicEdge 2020 Portfolio
DynamicEdge 2025 Class Portfolio
DynamicEdge 2025 Portfolio
DynamicEdge 2030 Class Portfolio
DynamicEdge 2030 Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses and Annual Information Form dated March 3, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
Series A, F, I, O and T Securities
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1543486

Issuer Name:
Galliard Resources Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated March 4, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
2,000,000 Common Shares - $400,000 - Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Jordan Capital Markets Inc.
Promoter(s):
Robert Bick
Project #1543022

Issuer Name:
IA CLARINGTON ASTON HILL TACTICAL YIELD FUND
Principal Regulator - Quebec
Type and Date:
Preliminary Long Form Prospectus dated March 2, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
Maximum: $ * (* Units) - Price: $10.00 per Unit
Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Financial Ltd.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Dundee Securities Corporation
Macquarie Capital Markets Canada Ltd.
Industrial Alliance Securities Inc.
Rothenberg Capital Management Inc.
Promoter(s):
IA Clarington Investments Inc.
Project #1541821

Issuer Name:
Long Reserve Life Resource Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus and Annual Information Form dated March 8, 2010
NP 11-202 Receipt dated March 9, 2010
Offering Price and Description:
Series A, F and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Navina Asset Management Inc.
Project #1543790

Issuer Name:
MacMillan Minerals Inc.
Type and Date:
Preliminary Non-Offering Long Form Prospectus dated March 1, 2010
Receipted on March 4, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1542185

Issuer Name:
NIF-T
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated March 8, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
Up to $1,500,000,000 Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Nissan Canada Inc.
Project #1543499

Issuer Name:
One Exploration Inc. (formerly, Zenastra Photonics Inc.)
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
100,000,000 Class A Shares Issuable on Exercise of Outstanding Special Warrants - Price: $0.25 per Special Warrant
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
GMP Securities L.P.
Wellington West Capital Markets Inc.
Haywood Securities Inc.
Promoter(s):
-
Project #1543042

Issuer Name:
RBC Phillips, Hager & North Monthly Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated March 9, 2010
NP 11-202 Receipt dated March 9, 2010
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
Royal Mutual Funds Inc.
Promoter(s):
-
Project #1543885

Issuer Name:
TD Private Aggressive Target Return Fund
TD Private Canadian Blue Chip Dividend Fund
TD Private Canadian Growth Fund
TD Private Canadian Value Fund
TD Private International Stock Fund
TD Private Moderate Target Return Fund
TD Private U.S. Corporate Bond Fund
TD Private U.S. Growth Currency Neutral Fund
TD Private U.S. Value Currency Neutral Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated March 3, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
TD Asset Management Inc.
Project #1541674

Issuer Name:
Western Energy Services Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 3, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$75,000,000 - 375,000,000 Common Shares - Price: $0.20 per Offered Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
Raymond James Ltd.
FirstEnergy Capital Corp.
Peters & Co. Limited
Thomas Weisel Partners Canada Inc.
Promoter(s):
-
Project #1541916

Issuer Name:
Winterville (2008) Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated March 4, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
$5,000,000 (Minimum Offering) - $100,000,000 (Maximum Offering) - A maximum of 4,000,000 and a minimum of 200,000 Limited Partnership Units - Subscription Price: $25 per Unit - Minimum Subscription: 200 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Promoter(s):
Petro Assets Inc.
Project #1542238

Issuer Name:
Yoho Resources Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 8, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
$11,625,000 - 2,500,000 Common Shares and 1,500,000 Flow-Through Shares - Price: $2.70 per Common Share and Price: $3.25 per Flow-Through Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
Cormark Securities Inc.
Peters & Co. Limited
Acumen Capital Finance Partners Limited
Mackie Research Capital Corporation
Promoter(s):
-
Project #1543554

Issuer Name:
Ark StoneCastle Stable Growth Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 23, 2010 to Final Simplified Prospectus and Annual Information Form dated August 7, 2009
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ark Fund Management Ltd.
Project #1421495

Issuer Name:
Augusta Resource Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
$32,505,000 - 11,820,000 Common Shares - Price: $2.75 per Common Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
Wellington West Capital Markets Inc.
Canaccord Financial Ltd.
National Bank Financial Inc.
Promoter(s):
-
Project #1540377

Issuer Name:
Black Diamond Group Limited
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated March 9, 2010
NP 11-202 Receipt dated March 9, 2010
Offering Price and Description:
$22,620,000 - 1,200,000 Common Shares - Price: $18.85 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
BMO Nesbitt Burns Inc.
Acumen Capital Finance Partners Limited
FristEnergy Capital Corp.
Peters & Co. Limited
CI Capital Markets Inc.
Clarus Securities Inc.
Promoter(s):
-
Project #1541162

Issuer Name:
Boston Pizza Royalties Income Fund
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 8, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
$16,132,500 - 1,350,000 Units - Price: $11.95 per Offered Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Financial Ltd.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #1539291

Issuer Name:
Brookfield Renewable Power Preferred Equity Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 3, 2010
NP 11-202 Receipt dated March 3, 2010
Offering Price and Description:
$250,000,000 - 10,000,000 Class A Preference Shares, Series 1 - Price: $25.00 per Series 1 Share
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Macquarie Capital Markets Canada Ltd.
FirstEnergy Capital Corp.
Canaccord Financial Ltd.
Desjardins Securities Inc.
Genuity Capital Markets
Brookfield Financial Corp.
Promoter(s):
-
Project #1537211

Issuer Name:
Canadian Focused Balanced Fund
Canadian Focused Growth Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated March 2, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
SEI Investments Canada Company
Project #1526780

Issuer Name:
Dundee Precious Metals Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$66,000,000 - 20,000,000 Common Shares - Price: $3.30 per Offered Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Cormark Securities Inc.
Dundee Securities Corporation
BMO Nesbitt Burns Inc.
Union Securities Ltd.
Promoter(s):
-
Project #1538797

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 9, 2010
NP 11-202 Receipt dated March 9, 2010
Offering Price and Description:
$100,116,250 - 3,965,000 REIT Units, Series A - Price: $25.25 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Brookfield Financial Corp.
Desjardins Securities Inc.
Genuity Capital Markets
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1541101

Issuer Name:
Global Iman Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated March 3, 2010
NP 11-202 Receipt dated March 4, 2010
Offering Price and Description:
Series A and F units
Underwriter(s) or Distributor(s):
Global Prosperata Funds Inc.
Promoter(s):
Global Prosperata Funds Inc.
Project #1533646

Issuer Name:
Hydro One Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 2, 2010 to Final Shelf Prospectus dated July 27, 2009
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$3,000,000,000
Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Casgrain & Company Limited
CIBC World Markets Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Laurentian Bank Securities Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #1445070

Issuer Name:
Peregrine Metals Ltd.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated March 3, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$20,000,000 - Public Offering of 20,000,000 Units - Price: $1.00 per Unit
Each Unit consisting of one Common Share and one-half of one Common Share Purchase Warrant and
Distribution of 9,919,100 Common Shares and 4,959,550 Common Share Purchase Warrants issuable upon the exchange of 9,919,100 previously issued Special Warrants
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Dundee Securities Corporation
Canaccord Financial Ltd.
Promoter(s):
-
Project #1517175

Issuer Name:
Sentry Select Conservative Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
Sentry Select Capital Inc.
Promoter(s):
Sentry Select Capital Inc.
Project #1533769

Issuer Name:
SMC Man AHL Alpha Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 8, 2010
Offering Price and Description:
Maximum Offering: $100,000,000 - (10,000,000 Class A Units and Class F Units)
Minimum Offering: $10,000,000 - (1,000,000 Class A Units and Class F Units)
Price: $10.00 per Unit
Minimum Purchase: $5,000 (500 Units)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #1518995

Issuer Name:
Superior Plus Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated March 5, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$150,000,000 - 5.75% Convertible Unsecured Subordinated Debentures - Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
Natioanl Bank Financial Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Cormark Securities Inc.
Promoter(s):
-
Project #1539319

Issuer Name:
Uranium One Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 4, 2010
NP 11-202 Receipt dated March 5, 2010
Offering Price and Description:
$250,000,000 - 7.5% (re-settable to 5%) Convertible Unsecured Subordinated Debentures due March 13, 2015 - Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Canaccord Financial Ltd.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #1537361

Issuer Name:
Harvest Global Transportation Plus Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 20, 2010
Withdrawn on March 9, 2010
Offering Price and Description:
$ * - * Units - Price: $12.00 per Unit
(Minimum Purchase: 200 Units)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Market Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Dundee Securities Corporation
Raymond James Ltd.
Canaccord Financial Ltd.
Macquarie Capital Markets (Canada) Ltd.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Promoter(s):
Harvest Portfolios Group Inc.
Project #1526166

Issuer Name:
Horizons BetaPro U.S. NYMEX® Crude Oil ETF
Horizons BetaPro U.S. NYMEX® Natural Gas ETF
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated September 10, 2009
Withdrawn on March 3, 2010
Offering Price and Description:
U.S. $ Class U Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
BetaPro Management Inc.
Project #1475185

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change of Category	Monarch Wealth Corporation	From: Exempt Market Dealer, and Mutual Fund Dealer To: Exempt Market Dealer, Mutual Fund Dealer and Investment Fund Manager.	March 3, 2010
Change of Category	OTT Capital Corporation	From: Exempt Market Dealer To: Exempt Market Dealer Portfolio Manager	March 4, 2010
New Registration	Third Eye Capital Management Inc.	Portfolio Manager	March 4, 2010
Change of Category	OMERS Investment Management Inc.	From: Exempt Market Dealer To: Exempt Market Dealer, Portfolio Manager	March 8, 2010
Consent to Suspension	Interbank Direct Investments Ltd.	Exempt Market Dealer	March 8, 2010

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 MDPIM Canadian Long Term Bond Pool (originally filed as MDPIM Canadian Mid/Long Bond Pool)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from s. 2.1(e) of NI 81-101 to file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, s 2.1(e).

March 4, 2010

Borden Ladner Gervais

Attention: Mr. Steve Thomas

Dear Sirs/Mesdames:

Re: MDPIM Canadian Long Term Bond Pool (the "Fund") (originally filed as MDPIM Canadian Mid/Long Bond Pool)

Exemptive Relief Application under Part 6 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101)
Application No. 2010/0127; SEDAR Project No. 1513774

By letter dated February 23, 2010 (the Application), the Fund applied to the Director of the Ontario Securities Commission (the Director) under section 6.1 of NI 81-101 for relief from the operation of section 2.1(e) of NI 81-101, which prohibits an issuer from filing a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Fund's prospectus, subject to the condition that the prospectus be filed no later than April 15, 2010.

Yours very truly,

"Vera Nunes"
Assistant-Manager, Investment Funds Branch

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