



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

FILE NO.: 2020-40

**IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. and COLIN FISHER**

**SETTLEMENT AGREEMENT
(Stableview Asset Management Inc. and Colin Fisher)**

PART I - INTRODUCTION

1. This proceeding centres on registrants acting as a portfolio manager (**PM**) and investment fund manager (**IFM**) who disregarded investment restrictions when managing client money. The registrants advised clients that certain investment parameters and restrictions designed to limit risk would be respected in the registrants' discretionary management of client funds. The registrants then ignored these restrictions and increasingly invested client monies in a thinly-traded penny stock company that was suffering from a deteriorating financial position. The registrants did not tell clients about these investments or their deleterious effect on the restrictions set out in the registrants' agreements with clients. Nor did the registrants tell clients about the corporate registrant's receipt of various fees from the penny stock company. The registrants made prohibited misleading or untrue representations to their clients and failed in their duties as registrants including in their duty to deal fairly, honestly and in good faith with their clients.
2. Stableview Asset Management Inc. (**Stableview**) and its principal and directing mind, Colin Fisher (**Fisher**) managed and advised two investment funds that were distributed to Stableview's separately managed account (**SMA**) clients.
3. Stableview advised its SMA clients that their portfolios would be diversified and that Stableview would follow certain investment parameters and restrictions including limits on investments in private debt. For most SMA clients, this limit was set at 10% of the client's holdings.

4. From 2016 to 2019, Fisher caused Stableview's investment funds to become increasingly concentrated in the private debt of a penny stock company, Clarocity Corporation (**Clarocity**), formerly known as Zaiio Corporation. Stableview received compensation from Clarocity for various consulting, advising and financial services including cash payments totalling \$105,000, 1,360,000 shares of Clarocity common stock, and a \$150,000 Clarocity debenture which Stableview later sold to two of the funds it managed. While the agreements with investors contained some boilerplate disclosure that the PM may receive fees from providing financial advisory services to corporations whose securities are purchased for the investment account, details of the fees from Clarocity were not communicated to SMA clients. Fisher is the sole owner of Stableview, and Fisher benefitted from Stableview's misconduct.
5. Prior to and while these investments were made, Clarocity was continually operating at a loss. Clarocity repeatedly stated in its public filings that its ability to continue as a going concern was threatened by its financial position. Fisher was aware of Clarocity's financial condition. Stableview eventually sought and obtained a receiver over Clarocity's assets in June 2019.
6. Throughout Clarocity's growing financial deficit, Stableview continued to value the funds' investments in the Clarocity debentures at cost or at par. Clients received account statements and had access to an online portal that showed the number of units they held in the funds and the net asset value of those units. They were not informed of the specific investments held by the funds. As a result, they did not know that their investments were primarily concentrated in Clarocity debentures or that the value of their holdings in the fund(s) was in doubt at certain periods given Clarocity's significant financial issues.
7. In 2019, the Compliance and Registrant Regulation Branch (**CRR**) of the Ontario Securities Commission (**Commission**) conducted a compliance review of Stableview's compliance with Ontario securities law and identified numerous significant deficiencies. As a result, terms and conditions were placed on Stableview's registration that included trading and financial restrictions. In the spring of 2020, the Commission applied for and had a receiver appointed over Stableview and the funds' assets (**Stableview Receivership**).

8. Clients placed their trust in Fisher and gave Stableview discretionary authority to manage their hard-earned savings. Fisher and Stableview disregarded the investment restrictions they promised to follow and knowingly breached representations they made to their clients.
9. The setting of investment parameters is an important part of the client/registrant relationship. Registrants have a duty under securities law to respect these parameters. Registrants who disregard investment parameters and fail to disclose material facts to investors about their investments significantly undermine the integrity of Ontario's capital markets.

PART II - JOINT SETTLEMENT RECOMMENDATION

10. A Notice of Hearing was issued and a Statement of Allegations (the **Statement of Allegations**) was published in respect of a proceeding against Fisher and Stableview (the **Proceeding**) on December 16, 2020.
11. The parties will jointly file a request that the Capital Markets Tribunal (the **Tribunal**) issue a Notice of Hearing to announce that it will hold a hearing (the **Settlement Hearing**) to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**), it is in the public interest for the Tribunal to make certain orders against Stableview and Fisher (the **Respondents**).
12. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

PART III - AGREED FACTS

Stableview and the Creation of the Pooled Funds

13. Fisher was continuously registered with the Commission beginning January 1, 2008 and was in good standing prior to the events giving rise to this proceeding. He has not worked in a registered capacity since Stableview was placed under receivership on June 9, 2020.
14. Prior to founding Stableview, Fisher was registered under the Act as a Salesperson under the category of Investment Dealer with Manulife Securities, a Salesperson under the category of

Broker and Investment Dealer with Raymond James Ltd., a Dealing Representative under the category of Investment Dealer with Raymond James Ltd., and an Advising Representative under the category of Portfolio Manager with Kingship Capital Corp.

15. Stableview is registered under the Act as an IFM, PM, and exempt market dealer. Stableview was the PM for approximately 100 SMA clients.
16. Stableview managed and advised the following two funds that were distributed to its SMA clients:
 - a. Stableview Progressive Growth Fund (the **Progressive Fund**); and
 - b. Stableview Yield & Growth Fund (the **Yield Fund**) (collectively the **Pooled Funds**).
17. All investment decisions for the Pooled Funds were made by Fisher, who is Stableview's sole director and officer, and is registered under the Act as its sole Advising Representative, sole Dealing Representative, Chief Compliance Officer and Ultimate Designated Person. Fisher was the directing mind of Stableview and made all decisions on its behalf.
18. Stableview also managed a third fund, the Insight Fund LP (the **Insight Fund**) that was made available to high net worth clients outside of Stableview's SMA client base and was distributed to approximately 8 clients (the Insight Fund and the Pooled Funds are collectively referred to as the **Stableview Funds**). Other than with respect to the Inter-Fund Loans (described below at paragraph 49), there are no allegations in this proceeding with respect to the management of the Insight Fund or communications with investors thereof.
19. The Pooled Funds were formed and pooled in July 2016. The features of each fund, including restrictions on their investment activities, were set out in a legal constating document the Respondents called a "regulation", with each fund having its own regulation (collectively, the **Regulations**). The Pooled Funds are both unit trusts with Stableview acting as the trustee. Following their creation, the Pooled Funds were distributed to Stableview's SMA clients as part of its discretionary portfolio management of the assets of those clients. As of November 30, 2018, the Pooled Funds had 102 investors.

20. After the creation of the Pooled Funds, Stableview primarily invested SMA client monies in one or more of the Pooled Funds for which Stableview received a management fee.
21. Prior to the creation of the Pooled Funds, Stableview began investing in an Alberta corporation called Zaio Corporation. Zaio Corporation was incorporated under the laws of the province of Alberta and was a reporting issuer in British Columbia, Alberta and Ontario that traded on the TSX Venture Exchange. On or about October 14, 2016, Zaio Corporation changed its name to Clarocity.
22. Clarocity was a public company, in the business of providing customers in the property valuation, underwriting and lending industries with real-time access to certified appraisal reports from the company's patented database of proactively maintained residential property valuations prepared by licensed appraisers across the United States.
23. Fisher began investing in Clarocity on behalf of investors before the creation of Stableview in August 2013. Fisher's investment in Clarocity also continued after the creation of Stableview and also after the creation of the Pooled Funds in July 2016.
24. From August 2016 to June 30, 2019, Fisher caused the Pooled Funds to become increasingly over-concentrated in Clarocity debt, by acquiring approximately \$16.5 million in Clarocity debentures. Clarocity operated at a loss over this entire period. At all relevant times, Fisher and Stableview knew of Clarocity's financial performance.
25. While Fisher was investing SMA client monies (and subsequently the Pooled Funds' monies) in Clarocity, he caused Stableview to enter into fee arrangements with Clarocity. Stableview entered into two agreements with Clarocity. The first agreement dated January 25, 2016, and subsequently amended, involved Stableview entering into a debt facility that Stableview was to coordinate for Clarocity, with funds to be supplied by, among other sources, Stableview's SMA clients (the **Debt Coordination Agreement**).
26. The second agreement was a financial advisory and consulting agreement made effective as of March 28, 2016 (the **Fiscal Advisory/Consulting Agreement**). Under this agreement, Stableview was to assist Clarocity in reorganizing its capital structure.

27. Stableview received the following compensation from Clarocity (collectively, the **Clarocity Compensation**):
- a. **Debentures:** Stableview received a \$150,000 debenture under the terms of the Debt Coordination Agreement.
 - b. **Common Shares:** Stableview received 1.36 million common shares of Clarocity under the Fiscal Advisory/Consulting Agreement as compensation for assisting Clarocity to reorganize its capital structure.
 - c. **Cash:** Stableview received \$105,000 under the terms of the Debt Coordination Agreement, paid in 6 quarterly payments of \$17,500 each.
28. In 2018, Stableview, Clarocity and a company called iLookabout Corp. (**iLookabout**) entered into a non-binding term sheet for iLookabout's acquisition of Clarocity and assumption of its debt, but the term-sheet was terminated in 2019.
29. On January 29, 2019, Clarocity announced an event of default had occurred with respect to \$20,050,000 principal amount of secured debentures which had become due and payable on January 25, 2019. As the holder of approximately 90% of those debentures, Stableview sought the appointment of a receiver over the business and affairs of Clarocity. On June 11, 2019, a receiver was appointed over Clarocity.
30. According to the first report of Clarocity's receiver filed June 13, 2019, the total indebtedness owing by Clarocity to debenture holders was \$23.7 million, including interest (the **First Report**) (in respect of over \$16.5 million that was invested by the Pooled Funds). The three Stableview Funds were the largest of the debenture holders, holding in aggregate approximately 90% of the total outstanding indebtedness owed by Clarocity to the debenture holders (a face value of approximately \$21.5 million).
31. As part of the receivership, Stableview negotiated a transaction with Clarocity's receiver and iLookabout, which provided that iLookabout acquired all assets of Clarocity for a purchase price in the amount of the indebtedness owed by Clarocity to iLookabout and the debenture holders payable in common shares, warrants and convertible debentures of iLookabout (the **iLookabout Transaction**).

32. Following the court's approval of the iLookabout Transaction, the Pooled Funds received an interest in iLookabout encompassing 18,947,182 common shares, 15,652,000 warrants and a \$7,166,971 convertible debenture.

Untrue/Misleading Statements and Failing to deal Fairly, Honestly and in Good Faith

33. By engaging in the conduct described below, Fisher and Stableview made untrue statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship and/or omitted information necessary to prevent statements from being false or misleading in the circumstances in which they were made and failed to deal fairly, honestly and in good faith with their clients.

34. In order to open an SMA at Stableview, clients signed a Portfolio Management Agreement and Investment Policy Statement (the **PMA & IPS**). The PMA & IPS represented to investors that their portfolio would be "diversified over multiple industry sectors" (**Diversification Representation**).

35. The PMA & IPS also contained a restriction on Stableview's ability to invest funds in illiquid investments, referred to as "alternative investments". The PMA & IPS described "alternative investments" as "investments in non-conventional instruments" that "would include but are not limited to such instruments as hedge funds, venture capital, commodities and private equity funds, private companies, private debt issuance." The investments made by Stableview at Fisher's direction in Clarocity debentures are "alternative investments" under the PMA & IPS.

36. Even if some or all of the Clarocity debentures could be characterized as "fixed income" investments, Stableview represented to its SMA clients in the PMA & IPS that the fixed income component of the client's portfolio would be "primarily invested in investment grade bonds as at the date of purchase" (**Fixed Income Representation**). The Clarocity debentures did not constitute investment grade bonds.

37. Pursuant to the PMA & IPS, Stableview's authority to perform discretionary management over client funds was subject to the investment objectives, policies and restrictions contained in the client's PMA & IPS.

38. For some long-standing clients of Fisher, the only PMA & IPS that Stableview had on file was the PMA & IPS between the client and Fisher's predecessor employer. Those PMA & IPSs contained the same representations and restrictions as referred to above.
39. All but 2 of the 85 PMA & IPSs on file for Stableview's SMA clients stipulated a maximum investment in alternative investments of 10% (**10% Alternative Investment Restriction**).
40. The Pooled Funds were created in July 2016. According to the Pooled Funds' Regulations, which constituted their legal constating documents, the intention was for the Pooled Funds to be invested "primarily in a diversified group of securities in both public and private companies which are deemed to represent solid return on equity for as minimal a risk as possible for the given return" (**Diversification Provision**) and leverage was supposed to be limited to 20% (**20% Leverage Restriction**).
41. By August 2016, Fisher caused the Pooled Funds to invest more than 10% of their holdings in private debt. This caused SMA client investments in the Pooled Funds to be offside the 10% Alternative Investment Restriction. By December 31, 2016, 22% of the Pooled Funds' holdings were in private debt. Thereafter, Fisher disregarded the Diversification Representation, the 10% Alternative Investment Restriction, the Fixed Income Representation and the Diversification Provision in making investment decisions on behalf of the Pooled Funds.
42. According to Clarocity's publicly-filed financial statements, Clarocity had a cumulative deficit of \$91.2 million as of December 31, 2015. This cumulative deficit continued to grow during the period of the Pooled Funds' direct and indirect investments in Clarocity debentures from August 2016 to July 2019.
43. On August 7, 2018, the custodian of the Pooled Funds issued a margin call to Stableview whereby it restricted Stableview's margin accounts to redemptions only. The custodian of the Pooled Funds thereafter began liquidating securities in the Pooled Funds, which increased the level of the Pooled Funds' concentration in Clarocity debentures.

44. The following summarizes the Pooled Funds' investments in Clarocity debentures as a percentage of the Pooled Funds' portfolio holdings from August 31, 2016 to June 30, 2019 (prior to the Clarocity receivership and iLookabout Transaction):

Date	Progressive Fund	Yield Fund
Aug 31, 2016	13%	14%
Dec 31, 2016	22%	22%
May 31, 2017	27%	31%
Sep 30, 2017	37%	43%
Dec 31, 2017	38%	42%
July 31, 2018	44%	48%
Dec 31, 2018	70%	83%
Jun 30, 2019	67%	96%

45. SMA clients' total exposure to one issuer (Clarocity) and one sector (technology) was even greater than the percentages set out above because the Pooled Funds held other Clarocity securities and Fisher caused some SMA clients to hold direct investments in Clarocity securities over and above their exposure to Clarocity through their investments in the Pooled Funds.

46. As part of the Clarocity receivership, Fisher initiated the iLookabout Transaction, which resulted in the Pooled Funds continuing to be overconcentrated in debentures and in the securities of one issuer and one sector. As of October 31, 2019, investments in iLookabout debentures as a percentage of the Pooled Funds' portfolio holdings was 60% for the Yield Fund, and 39% for the Progressive Fund and investments in iLookabout securities (shares and debentures) as a percentage of the Pooled Fund's holdings was 95% for the Yield Fund and 62% for the Progressive Fund.

47. The Pooled Funds' over-concentrations in Clarocity debentures arose as a result of:

- a. Fisher causing the Pooled Fund to continuously over-invest in Clarocity debentures from August 2016 to August 2018;

- b. A margin call from the custodian of the Pooled Funds' holdings in August of 2018, which resulted in the sale of other more liquid securities in the portfolio of the Pooled Funds in order to satisfy the margin call;
 - c. Fisher directing the Yield Fund, in August 2018, to purchase \$75,000 of the \$150,000 Clarocity debenture Stableview received as compensation from Clarocity when the Yield Fund's concentration in Clarocity debentures was already at 48%; and
 - d. Fisher causing the Progressive Fund, in March and July 2019, to purchase units in the Yield Fund (a fund that was almost entirely comprised of Clarocity debentures by that time) for \$1,742,000 in order to bring needed cash into the illiquid Yield Fund to reduce its use of margin in its margin account at an investment dealer when the Progressive Fund's concentration in Clarocity debentures was already at 66%. These transactions increased the Progressive Fund's concentration in Clarocity debentures to 76%.
48. Fisher also repeatedly disregarded the 20% Leverage Restriction when making investment decisions on behalf of the Pooled Funds. As of the end of 2017, the Yield Fund and Progressive Fund leverage ratios were double and triple the 20% limit. The following summarizes leverage as a percentage of the Pooled Funds' net assets as of the end of 2017 to the end of 2018:

Date	Yield Fund	Progressive Fund
Dec 31, 2017	64%	45%
July 31, 2018	78%	45%
Dec 31, 2018 ¹	45%	26%

49. In addition, from December 2019 to February 2020, Fisher caused the Progressive Fund to make loans of approximately \$45,000 and \$117,000 to the Insight Fund and the Yield Fund

¹ On August 7, 2018, the Pooled Funds' custodian (an investment dealer) restricted Stableview's margin accounts to redemptions only. By the end of 2018, the Pooled Funds' leverage ratios reflected the custodian's externally-imposed leverage restriction but were still considerably offside the 20% Leverage Restriction.

respectively either to cover their negative cash balances that arose from the payment of invoices, including the payment of monthly management fees to Stableview or to allow them to pay such invoices (**Inter-Fund Loans**).

50. In causing the transactions referred to in paragraphs 33 to 49 to occur, the Respondents repeatedly disregarded and breached the Diversification Representation, the 10% Alternative Investment Restriction, the Fixed Income Representation, the Diversification Provision, and the 20% Leverage Restriction.

51. The Respondents failed to disclose the facts referred to in paragraphs 41 to 49 above to SMA clients. Other facts the Respondents omitted to disclose to SMA clients included:

- a. Stableview's receipt of the Clarocity Compensation; and
- b. Clarocity's financial difficulties, which eventually led Stableview to seek the appointment of a receiver over Clarocity's assets.

(Collectively the **Omitted Facts**)

52. Through the representations they made to investors in the PMA & IPS and their withholding that client accounts were in breach of the Diversification Representation, the 10% Alternative Investment Restriction and the Fixed Income Representation, Fisher and Stableview made untrue statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship and/or omitted information necessary to prevent statements from being false or misleading in the circumstances in which they were made. Further, by withholding these facts and the other Omitted Facts, Fisher and Stableview also failed in their duties as registrants, including in their duty to deal fairly, honestly and in good faith with their clients.

Management Fees Earned by Stableview

53. Since inception, as compensation for managing the Pooled Funds, Stableview received \$1,599,854 in cash, broken down as follows:

- a. Yield Fund – Management Fee: \$397,672; and

b. Progressive Fund – Management Fee: \$1,202,182.

54. Most of this compensation was used to pay rent, salaries and other expenses relating to Stableview. Fisher also personally benefitted from the management fees. The parties agree it is appropriate for Fisher to personally disgorge the amount of \$300,000 on account of the management fees received by Stableview.

Effect on SMA clients

55. Yield Fund investors have been unable to access any of their investments and Progressive Fund investors have been unable to fully access their investments for over two years because of the Pooled Funds' investments in iLookabout (now called Voxel Analytics Corp. (**Voxel**)) securities. It is not known when this situation will change.

56. The iLookabout securities comprised a significant portion of the Pooled Funds as at the date of the Stableview Receivership. They were subject to the terms of a standstill agreement that had been executed as part of the sales transaction between Clarocity and iLookabout (the **Standstill Agreement**). Among other things, the Standstill Agreement restricts Stableview from the following:

“selling, in any single day, a number of Common Shares greater than two and a fifth percent (2.2%) of the average daily trading volume of Common Shares on any applicable securities exchange for the five (5) preceding trading days, (ii) selling a number of Common Shares greater than five and a half percent (5.5%) of the Common Shares held by StableView on a non-diluted basis in any calendar quarter, (iii) selling a number of common shares greater than five and a half percent (5.5%) of the Common Shares held by StableView on a non-diluted basis to any one person or group of persons acting jointly, each unless with the prior written consent of ILA.”

57. The Stableview Receivership has been in effect since June 9, 2020 and remains in effect today. According to the Third Report to the Court dated March 22, 2021 submitted by Grant Thornton Limited in its capacity as receiver for Stableview and the Stableview Funds (the **Stableview Receiver**), the Standstill Agreement contains significant trading restrictions which “severely limits the monetization and redemption” of the iLookabout securities.

58. Notwithstanding the Standstill Agreement, on or about July 29, 2020, iLookabout management provided the Stableview Receiver with an unsolicited term sheet, setting out an offer to purchase the iLookabout securities from the Stableview Receiver. The Stableview Receiver noted this offer “is the only practical available alternative to speedy monetization of the Stableview Funds” but expressed concern that it was “significantly less than the current market value for the Shares”. The Stableview Receiver determined that accepting this deal was not in the best interests of investors.
59. Of the shares held by the Pooled Funds, approximately 70% were in two companies: iLookabout and Acuity Ads Holding Inc. (**Acuity**). By November 9, 2020, shares in both those companies had substantially increased in their trading price since the Stableview Receiver’s appointment. Acuity had increased in value by more than 1,700%. Between December 21, 2020 and January 6, 2021, the Stableview Receiver liquidated the Pooled Funds’ holdings in Acuity (primarily held by the Progressive Fund), netting an average sale price of \$17.58 per share and net proceeds of \$16,693,763, for a capital gain of \$15,107,781 in the Progressive Fund. This gain represented an estimated 90% of the Progressive Fund investors’ average invested capital.
60. Following the disposition of the Acuity shares, the Stableview Receiver sought and obtained approval to make a \$10 million distribution to investors in the Progressive Fund, proportionate to their units in the Progressive Fund. The distribution to Progressive Fund investors represented an estimated 60% on the dollar of the Progressive Fund investors’ average invested capital. However, no distribution was made in respect of the Yield Fund, which had insufficient liquidity to make distributions.
61. None of the Vixtur shares held by the Pooled Funds have been liquidated by the Stableview Receiver. Liquidation of those securities is currently restricted by the Standstill Agreement and by strategic considerations. Although the current trading price for those shares (which trade on the TSX-V and in the OTC markets in the U.S.) is significantly higher than its trading price at the commencement of the Stableview Receivership, it is not known when the Vixtur securities may be liquidated or at what price and when SMA clients may be able to access or have further access to funds from their RESP, RRSP, RRIF, TFSA and unregistered accounts in the future.

Breaches of Securities Law

62. Through their conduct described above, Fisher and Stableview made untrue statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship and/or omitted information necessary to prevent statements from being false or misleading in the circumstances in which they were made, contrary to subsection 44(2) of the Act.
63. At all material times, Fisher and Stableview were registrants. The conduct described above resulted in numerous breaches of the Respondents' duties and obligations as registrants, including the duty to deal fairly, honestly and in good faith with clients, as set out in Part IV below.
64. At all material times, Fisher was the sole directing mind of Stableview and authorized and directed the conduct of Stableview described above and is responsible for Stableview's breaches of Ontario securities law pursuant to section 129.2 of the Act.

Mitigating Factors for Fisher

65. Fisher has been continuously registered with the Commission since January 1, 2008, and is also registered in the provinces of Alberta and British Columbia. He has not worked in a registered capacity since Stableview entered receivership on June 9, 2020. He has no prior disciplinary record with any securities regulatory authority, including the Commission.
66. Fisher was forthright in his interviews in this matter, candidly admitting from the outset of the investigation to exceeding the concentration/diversification provisions of the PMA & IPS' and the leverage provision in the Regulations of the Pooled Funds.
67. Fisher consented to the appointment of a receiver over the administration and assets of Stableview and the Pooled Funds.
68. Fisher cooperated with the administration of the Stableview Receivership. The Stableview Receiver has relied on a variety of sources to manage and make decisions regarding the Pooled Funds, including Fisher's insight on his intended plan for the Pooled Funds, which has assisted the Stableview Receiver in its decision-making process.

69. Fisher is currently impecunious.

Fisher's Position

70. As to the investments in Clarocity securities, Fisher's position is that Clarocity had growth potential based on what he considered to be the unique products and services Clarocity offered, and Fisher considered Clarocity's balance sheet to be consistent with many successful early-stage firms in the technology industry. However, Fisher concedes that Clarocity missed its earning targets, failed for years to raise capital from any source other than Stableview, and was unable to avoid paying out debentures that pre-dated (and were senior to) the Stableview debentures.

71. Fisher also considered Clarocity's cumulative deficit to have value as a tax asset, which could be monetized. However, Fisher concedes that this value never materialized.

72. As to Stableview's failure to identify, respond to and disclose material conflicts of interest in relation to Stableview's receipt of compensation from Clarocity, Fisher's position is as follows.

- a. The PMA & IPS agreements contained a provision stating: "The Client acknowledges that the Portfolio Manager may from time to time provide financial advisory services to corporations (including as serving as a member of a board of directors) including corporations whose securities the Portfolio Manager may purchase, sell or otherwise trade in for the Investment Account. The Client acknowledges that the Portfolio Manager may receive fees for services provided in this regard and that such fees are for the account of the Portfolio Manager only."
- b. In addition, on January 26, 2016 (the date after the effective date of the Debt Coordination Agreement, Clarocity (then known as Zaio) issued a press release announcing that it had closed \$1.585 million in gross proceeds through a private placement financing, that it had issued debentures to subscribers, and that Stableview was the "Lender Representative" on behalf of the debenture holders. The press release also indicated that Clarocity would pay the Lender Representative various fees, including: (i) a \$150,000 facility administration fee, payable as to \$100,000 by way of the issuance of 1,666,667 Common Shares and as to \$50,000

through the issuance of \$50,000 Debentures; and (ii) a fixed annual fee of \$70,000, payable quarterly. The press release made no mention of the Pooled Funds or their investors.

73. At the time, Fisher believed that these two documents were sufficient to discharge Stableview's duty to identify, respond to and disclose material conflicts of interest. He later realized he was incorrect.

74. A proposed class action was commenced in the Ontario Superior Court of Justice by a Stableview investor. The plaintiff later asked the Court to dismiss the proposed action on the basis that Stableview did not have a policy of insurance that would respond to the claim, that Fisher did not have assets that could be used to satisfy the claim, and that the iLookabout shares had increased in value such that it was likely that the losses of the plaintiff and putative class members had been made good. The action was dismissed on consent, on a without-costs basis on February 8, 2022, with the court holding "it now appears [Stableview investors] have suffered no losses." Since that time, the iLookabout shares have not been liquidated.

75. The portfolios of the Pooled Funds are currently in gain positions. Two days after the Stableview Receiver was appointed, the share price of iLookabout common shares was \$0.13. The share price on May 31, 2022 was \$0.92, an unrealized gain of approximately 608%. If the iLookabout shares could be monetized at their current trading value, the investors would realize a significant profit. However, Fisher acknowledges it is currently uncertain as to when these securities may be liquidated and at what price, given the terms of the Standstill Agreement amongst other considerations.

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

76. Stableview acknowledges and admits that, during the time of the conduct referred to above:

- a. Stableview made prohibited misleading or untrue representations, contrary to s. 44(2) of the Act;

- b. Stableview, as a portfolio manager, breached its duty to identify, respond and disclose material conflicts of interest, contrary to s. 32(1) of the Act and s. 13.4 and 14.2 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**);
- c. Stableview, as a portfolio manager, breached its obligations to deliver to clients all information that a reasonable investor would consider important about their relationship with Stableview, contrary to s. 14.2 of NI 31-103;
- d. Stableview, as a portfolio manager, failed to fulfill the obligation to make suitable investments, contrary to s. 13.3 of NI 31-103;
- e. Stableview, as a portfolio manager, breached the duty to deal fairly, honestly and in good faith with clients, contrary to s. 2.1 of OSC Rule 31-505 – *Conditions of Registration* (**Rule 31-505**);
- f. Stableview, as an investment fund manager, breached the duties owed to the Pooled Funds to act honestly, in good faith and in the best interests of the Pooled Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances, contrary to s. 116 of the Act;
- g. Stableview, as a portfolio manager, breached the prohibition against knowingly causing an investment portfolio to purchase a security from a responsible person, contrary to s. 13.5(2)(b)(i) of NI 31-103;
- h. Stableview, as an investment fund manager, breached the prohibition against inter-fund loans and the requirement to file the appropriate documentation, contrary to s. 111 and s. 117 of the Act.

77. Fisher acknowledges and admits that, during the time of the conduct referred to above:

- a. he made prohibited misleading or untrue representations, contrary to s. 44(2) of the Act;

- b. in his capacity as advising representative and dealing representative, he breached the duty to deal fairly, honestly and in good faith with clients, contrary to s. 2.1 of Rule 31-505;
- c. in his capacity as advising representative, he failed to fulfill the obligation to make suitable investments, contrary to s. 13.3 of NI 31-103;
- d. as Ultimate Designated Person, he breached the duties prescribed by s. 5.1 of NI 31-103, including promoting compliance with securities legislation;
- e. as Chief Compliance Officer, he breached the duties prescribed by s. 5.2 of NI 31-103, including monitoring and assessing compliance with securities legislation;
- f. as the officer and director of Stableview, he authorized, permitted or acquiesced in Stableview's breaches of the obligations and duties set out above at paragraph 76, and is thereby liable for those breaches under s. 129.2 of the Act; and
- g. As set out in sub-paragraphs (a) to (f), above, Fischer engaged in conduct contrary to the public interest

PART V - TERMS OF SETTLEMENT

78. The Respondents agree to the terms of the settlement set forth below.

79. The Respondents consent to the Order substantially in the form attached as Schedule "A", pursuant to which it is ordered that:

- a. this Settlement Agreement is approved;
- b. commencing on the date the Stableview Receivership is wound up by order of the Superior Court of Justice:
 - i. the registration of Stableview under Ontario securities law be terminated permanently, pursuant to paragraph 1 of subsection 127(1) of the Act;

- ii. trading in any securities or derivatives, and the acquisition of any securities, by Stableview cease permanently, pursuant to paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act; and
 - iii. any exemptions contained in Ontario securities law do not apply to Stableview permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;
- c. the registration of Fisher under Ontario securities law be terminated permanently commencing on the date of the Order, pursuant to paragraph 1 of subsection 127(1) of the Act;
- d. trading in any securities or derivatives, and the acquisition of any securities, by Fisher cease permanently commencing on the date of the Order, pursuant to paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act, except that following full payment of the amounts required to be paid by paragraphs (k), (l) and (m) below, evidenced by a certificate of the Commission that will be provided to Fisher upon the Commission being satisfied that all such payments have been made (the **Certificate**), Fisher may trade in securities or derivatives or acquire securities in his own name and only in accounts over which he has sole legal and beneficial ownership and/ or joint ownership with a spouse or child, only through one registrant who has been given copies of the Settlement Agreement, the settlement approval decision and the Certificate;
- e. any exemptions contained in Ontario securities law do not apply to Fisher permanently, commencing on the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act, except to the extent necessary to allow him to trade securities or derivatives or acquire securities as permitted by the preceding paragraph;
- f. Fisher be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

- g. Fisher immediately resign any position that he holds as a director or officer of any issuer, registrant or investment fund manager, pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;
- h. Fisher be prohibited permanently from becoming or acting as a director or officer of any issuer, pursuant to paragraph 8 of subsection 127(1) of the Act, except that following full payment of the amounts required to be paid by paragraphs (k), (l) and (m) below, evidenced by the Certificate, Fisher may act as a director or officer of an issuer, other than a reporting issuer or registrant;
- i. Fisher be prohibited permanently from becoming or acting as a director or officer of any registrant or investment fund manager, pursuant to paragraphs 8.2 and 8.4 of subsection 127(1) of the Act;
- j. Fisher be prohibited permanently from becoming or acting as a registrant, as an investment fund manager, or as promoter pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- k. Fisher shall pay an administrative penalty in the amount of \$750,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
- l. Fisher shall disgorge to the Commission the amount of \$300,000, pursuant to paragraph 10 of subsection 127(1) of the Act;
- m. Fisher shall pay costs in the amount of \$270,000, pursuant to section 127.1 of the Act;
- n. Fisher shall pay installments of at least \$50,000 to the Commission at least every twelve months from the date on which the Settlement Agreement is approved, until the amounts ordered against Fisher set out in sub-paragraphs (k), (l) and (m) be paid in full to the Commission;
- o. pursuant to Rule 22(4) of the Tribunal's *Rules of Procedure and Forms*, the sworn Statements of Financial Condition referred to in the Settlement Agreement shall be kept confidential;

- p. to the extent that the installments for which Fisher is responsible set out in sub-paragraph (n) above are not paid and remain unpaid, Fisher agrees to provide the Commission with an updated sworn Statement of Financial within five business days of the unpaid installment deadline for the period starting six months prior thereto and a further updated sworn Statement of Financial Condition every twelve months until the installments that are due and payable are paid to the Commission; and
- q. with respect to the periodic payments specified in sub-paragraph (n) above, Fisher agrees to make periodic payments first towards the amounts set out in sub-paragraph (l) above, then towards the amount set out in sub-paragraph (k), and finally towards the amount set out in sub-paragraph (m) above.

80. Fisher has provided the Commission with a sworn Statement of Financial Condition indicating a limited ability to make full, up-front payments of the agreed financial sanctions. These Statements of Financial Condition will be provided to the Tribunal at the confidential settlement conference and public settlement hearing, but will not be made public.

81. Fisher acknowledges that, in addition to any proceedings referred to in paragraphs 85 to 87 below, failure to pay the amounts ordered in accordance with the schedule will result in the Respondent's name being added to the list of "Delinquent Respondents" with unpaid sanctions published on the Commission's and/or the Tribunal's website.

Undertaking of the Respondent

82. Fisher has given the undertaking (the **Undertaking**) to the Commission attached as Schedule "B" to this Settlement Agreement. The parties are agreed that Fisher's compliance with the Undertaking is a term and condition of the Order. Fisher undertakes as follows.

- a. Fisher hereby undertakes to not cause Stableview to bring any claim against any person, corporation or entity, except to the extent requested by the Stableview Receiver.

- b. Fisher hereby undertakes not to bring any claims, applications, motions or other proceedings in the Stableview Receivership, on behalf of himself or on behalf of Stableview including any claim for entitlement to management fees, performance fees or any other payment.
- c. Fisher hereby renounces any claim or entitlement to any and all funds or assets remaining in Stableview, and directs that any such funds or assets may be used by the Stableview Receiver first, for payment of its receivership fees and/or reimbursement to the Stableview Funds for receivership fees incurred and charged to date, and second, with any remainder to be distributed pro-rata to investors of the Pooled Funds.

Reciprocal Orders

83. The Respondents consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 79, other than sub-paragraphs 79 (k) through (q). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.
84. The Respondents acknowledge that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondents. The Respondents should contact the securities regulator of any other jurisdiction in which the Respondents intend to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

PART VI - FURTHER PROCEEDINGS

85. If the Tribunal approves this Settlement Agreement, no enforcement proceeding will be commenced or continued against the Respondents under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondents fail to comply with any term in this Settlement Agreement, in which case enforcement proceedings may be brought under Ontario securities law against the Respondents that may be based on,

among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

86. Fisher acknowledges that, if the Tribunal approves this Settlement Agreement and Fisher fails to comply with any term in it, proceedings may be brought in order to, among other things, recover the amounts set out in sub-paragraphs 79(k), 79(l) and 79(m), above.
87. The Respondents waive any defences to a proceeding referenced in paragraph 85 or 86 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

88. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Tribunal, which shall be held on a date determined by the Tribunal's Governance and Tribunal Secretariat in accordance with this Settlement Agreement and the Tribunal's *Rules of Procedure and Forms*.
89. Fisher will attend the Settlement Hearing by video conference.
90. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.
91. If the Tribunal approves this Settlement Agreement:
- a. the Respondents irrevocably waive all rights to a full hearing, judicial review or appeal of this matter under the Act; and
 - b. no party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.
92. Whether or not the Tribunal approves this Settlement Agreement, the Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission or the Tribunal's

jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

93. If the Tribunal does not approve this Settlement Agreement or does not make an order substantially in the form of the Order attached as Schedule “A” to this Settlement Agreement:

- a. this Settlement Agreement and all discussions and negotiations between the parties before the Settlement Hearing will be without prejudice to any party; and
- b. the parties will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

94. The parties will keep the terms of this Settlement Agreement confidential until the Tribunal approves the Settlement Agreement, except as is necessary to make submissions at the Settlement Hearing. If, for whatever reason, the Tribunal does not approve the Settlement Agreement, the terms of the Settlement Agreement shall remain confidential indefinitely, unless the parties otherwise agree in writing or if required by law.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

95. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

96. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto, Ontario this 21st day of June 2022.

“Brendan Morrison”

“Colin Fisher”

Witness:

COLIN FISHER

DATED at Toronto, Ontario, this 21st day of June, 2022.

STABLEVIEW ASSET MANAGAMENT INC.

“Maya Poliak”

By: _____
Grant Thornton Limited in its capacity as receiver
for Stableview Asset Management Inc.

DATED at Toronto, Ontario, this 21st day of June, 2022

ONTARIO SECURITIES COMMISSION

By: “Jeff Kehoe”

Name: Jeff Kehoe

Title: Director, Enforcement Branch

SCHEDULE "A"

FORM OF ORDER

**IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. and COLIN FISHER**

File No. 2020-40

(Names of panelists comprising the panel)

(Day and date order made)

ORDER

(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)

WHEREAS on June 24, 2022, the Capital Markets Tribunal held a hearing by videoconference to consider an application made jointly by the parties for approval of a settlement agreement dated June 21, 2022 (the **Settlement Agreement**);

ON READING the joint request for a settlement hearing, including the Settlement Agreement dated June 21, 2022, the Statement of Allegations dated December 16, 2020, and the written submissions, on hearing the submissions of the representatives for each of the parties, and on considering the undertaking of Colin Fisher (**Fisher**) dated [**date**], which is attached as Schedule "A" to this Order (the **Undertaking**);

IT IS ORDERED THAT:

1. Pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;
and
2. Pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:
 - (a) Fisher shall comply with the Undertaking.
 - (b) commencing on the date the receivership of Stableview Asset Management Inc. (**Stableview**) is wound up by order of the Superior Court of Justice:
 - i. the registration of Stableview under Ontario securities law is terminated permanently, pursuant to paragraph 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (the **Act**);
 - ii. trading in any securities or derivatives, and the acquisition of any securities, by Stableview shall cease permanently, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the *Act*; and
 - iii. any exemptions contained in Ontario securities law shall not apply to

Stableview permanently, pursuant to paragraph 3 of subsection 127(1) of the *Act*;

- (c) pursuant to paragraph 1 of subsection 127(1) of the *Act*, the registration granted to Fisher under Ontario securities law is terminated permanently commencing on the date of this Order;
- (d) pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the *Act*, trading in any securities or derivatives, and the acquisition of any securities, by Fisher shall cease permanently commencing on the date of this Order, except that following full payment of the amounts required to be paid by paragraphs (l), (m) and (n) of this Order, evidenced by a certificate issued by the Commission that will be provided to Fisher upon the Commission being satisfied that all such payments have been made (the **Certificate**), Fisher may trade in securities or derivatives or acquire securities in his own name, and only in accounts over which he has sole legal and beneficial ownership and/or joint ownership with a spouse or child, through only one registrant who has been given copies of the Settlement Agreement, this Order and the Certificate;
- (e) pursuant to paragraph 3 of subsection 127(1) of the *Act*, commencing on the date of this Order, any exemptions contained in Ontario securities law shall not apply to Fisher permanently, except to the extent necessary to allow him to trade securities or derivatives or acquire securities as permitted by the preceding paragraph of this Order;
- (f) pursuant to paragraph 6 of subsection 127(1) of the *Act*, Fisher is reprimanded;
- (g) pursuant to paragraph 7 of subsection 127(1) of the *Act*, Fisher shall immediately resign any position that he holds as a director or officer of an issuer;
- (h) pursuant to paragraphs 8.1 and 8.3 of subsection 127(1) of the *Act*, Fisher shall immediately resign any position that he holds as a director or officer of a registrant, including an investment fund manager;
- (i) pursuant to paragraph 8 of subsection 127(1) of the *Act*, Fisher is prohibited from becoming or acting as a director or officer of any issuer permanently commencing on the date of this Order, except that following full payment of the amounts set out in paragraphs (l), (m) and (n) of this Order, evidenced by the Certificate, Fisher may act as a director or officer of an issuer, other than a reporting issuer or a registrant;
- (j) pursuant to paragraphs 8.2 and 8.4 of subsection 127(1) of the *Act*, Fisher is prohibited from becoming or acting as a director or officer of any registrant or investment fund manager, permanently commencing on the date of this Order;
- (k) pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Fisher is prohibited from becoming or acting as a registrant, as an investment fund

manager, or as a promoter permanently commencing on the date of this Order;

- (l) pursuant to paragraph 9 of subsection 127(1) of the *Act*, Fisher shall pay to the Commission an administrative penalty in the amount of \$750,000;
- (m) pursuant to paragraph 10 of subsection 127(1) of the *Act*, Fisher shall disgorge to the Commission the amount of \$300,000;
- (n) pursuant to section 127.1 of the *Act*, Fisher shall pay to the Commission costs in the amount of \$270,000;
- (o) Fisher shall pay installments of at least \$50,000 to the Commission at least every twelve months from the date of this Order, until the amounts ordered against Fisher set out in subparagraphs (l), (m) and (n) are paid in full to the Commission;
- (p) pursuant to Rule 22(4) of the *Capital Markets Tribunal's Rules of Procedure and Forms*, the sworn Statements of Financial Condition referred to in the Settlement Agreement shall be kept confidential;
- (q) to the extent that the full amount of the financial sanctions for which Fisher is responsible set out in sub-paragraphs (l), (m) and (n) of this Order remain unpaid, Fisher shall provide to the Commission an updated sworn Statement of Financial within five business days of the unpaid installment deadline for the period starting six months prior thereto and a further updated sworn Statement of Financial Condition every twelve months until the installments that are due and payable are paid to the Commission; and
- (r) with respect to the periodic payments specified in sub-paragraph (o) of this Order, Fisher shall make periodic payments first towards the amounts set out in sub-paragraph (m) of this Order, then towards the amount set out in sub-paragraph (l), and finally towards the amount set out in sub-paragraph (n) of this Order.

[Adjudicator]

[Adjudicator]

[Adjudicator]

SCHEDULE “B” – UNDERTAKING

IN THE MATTER OF STABLEVIEW ASSET MANAGEMENT AND COLIN FISHER

1. This Undertaking is given by Colin Fisher (the **Respondent**) to the Ontario Securities Commission (the **Commission**) in connection with the settlement agreement dated ____ (the **Settlement Agreement**) between the Respondent and the Commission.
2. The Respondent hereby undertakes to not cause Stableview to bring any claim against any person, corporation or entity, except to the extent requested by Grant Thornton Limited in its capacity as receiver for Stableview and the Stableview funds (the **Stableview Receiver**).
3. The Respondent hereby undertakes not to bring any claims, applications, motions or other proceedings in the Stableview Receivership, on behalf of himself or on behalf of Stableview including any claim for entitlement to management fees, performance fees or any other payment.
4. The Respondent hereby renounces any claim or entitlement to any and all funds or assets remaining in Stableview, and directs that any such funds or assets may be used by the Stableview Receiver first, for payment of its receivership fees and/or reimbursement to the Stableview Funds for receivership fees incurred and charged to date, and second, with any remainder to be distributed pro-rata to investors of the Pooled Funds (as such terms are defined in the Settlement Agreement).

Dated this ____ day of May, 2022

Witness: ●

COLIN FISHER