

Jack Marks

(Applicant)

-and-

CNSX Markets Inc.

(Respondent)

**APPLICATION FOR REVIEW OF A DECISION OF THE PANEL OF BOARD OF
DIRECTORS OF CNSX MARKETS INC. DATED MAY 21, 2025**

(SECTION 21.7 OF THE *Securities Act*, R.S.O 1990, c. S.5, as amended)

TAKE NOTICE, pursuant to s. 21.7 of the *Securities Act*, an application will be brought on behalf of the Applicant, Jack Marks (the “Applicant”), to the Capital Markets Tribunal, on a date and time to be set.

A. ORDER SOUGHT

The Applicant, Jack Marks, requests that the Tribunal make the following orders:

1. An order setting aside the decision of the Panel of Board of Directors of CNSX Markets Inc. (the “Canadian Securities Exchange” or the “CSE”) dated May 21, 2025;
2. In the alternative, an order directing the CSE to reconsider the matter in accordance with the principles of procedural fairness and natural justice, with directions from this Tribunal;
3. Such further and other relief as counsel may request and this Tribunal may deem just.

B. GROUNDS

The grounds for the request and the reasons for seeking a hearing and review are:

1. *Failure to Provide Reasons or Analytical Assessment of Submissions Made at the Hearing*

The CSE failed to provide any reasons or meaningful analysis in its decision dated May 21, 2025. In particular, the CSE failed to engage with or address detailed submissions made at the hearing concerning the use of cautionary language, disclaimers, and transparency measures embedded in the social media content at

issue. The Applicant's submissions at the hearing demonstrated a consistent and deliberate strategy by the speaker to avoid contravening Canadian securities laws, including:

- a) Explicit Disclaimers of Investment Advice
- b) Emphasis on Risk
- c) Disclosure of Personal Interest
- d) Absence of Predictive Statements
- e) Encouragement of Independent Research
- f) Repetition of Cautionary Phrasing
- g) Framing as Personal Opinion or Educational Content

Despite these robust and repeated efforts to clarify the nature and purpose of the content, the CSE's decision failed to address any of these issues nor to conduct any analysis of the social media content at issue. This constitutes a wholesale failure to grapple with material issues and the decision should be set aside.

2. Failure to Address or Analyze the Evidentiary Record

The CSE failed to investigate these issues and adjourn the matter for the purposes of an investigation and instead persisted to rely on that information in spite of the concerns as to the integrity of the record.

3. Reliance on Post Hoc and Unverified Documents

The CSE's decision is tainted by its reliance on documents and materials that were either created after the fact or were not in existence at the time of the original decision. There were also documents and information which were unreliable, leading to inferences that they might have been doctored and falsified. This retroactive evidentiary backfilling undermined the legitimacy of the process and compromised procedural fairness.

It also violates the rule that appellate review must be based on the record before the decision-maker. The failure to disclose this document contemporaneously, and the lack of any timestamps or provenance, casts doubt on its reliability and fairness.

4. Breach of Procedural Fairness Through Delayed Disclosure

The CSE failed to produce material documents until months after they were specifically requested, including the alleged January 2024 Listings Committee decision. The Appellant was denied a meaningful opportunity to know and respond to the case against him in real time, violating principles of natural justice. The CSE's conduct constituted systemic breaches of procedural fairness throughout this process.

5. Failure to Disclose Applicable Standards and Interpretive Criteria

Despite repeated requests, the CSE failed to disclose any policies, interpretive guides, or analytical criteria by which it assessed terms such as "investor protection concerns," "integrity concerns," or "disrepute to the Exchange." This lack of transparency renders the exercise of discretion unbounded and arbitrary.

6. Lack of Contemporaneous Notification and Opportunity to Respond

The CSE's delayed notice of the alleged original decision deprived the Appellant of a timely opportunity to respond or mitigate. This is especially prejudicial where the Appellant had entered into arrangements in good faith that were later destabilized by undisclosed retroactive findings. This conduct materially prejudices the Appellant and undermined the procedural fairness of this process.

7. Improper Reliance on Stale or Irrelevant Regulatory History

The CSE placed inappropriate weight on a decades-old SEC settlement involving no admission of wrongdoing, and ignored the absence of any current or recent regulatory findings by competent Canadian authorities. The Appellant has not been subject to any prohibition or bar and has consistently complied with disclosure standards and advertising guidance.

8. Use of Expression as a Proxy for Misconduct in the Absence of Findings

The CSE improperly treated the Appellant's expressive activity, including lawful opinion-based commentary on social media, as evidence against him. This approach has a chilling effect on legitimate expressive activity and has no lawful basis for deeming constitutionally protected expression as de facto evidence of unsuitability.

9. Disparate and Discriminatory Enforcement

The Appellant was subjected to punitive measures based on vague reputational concerns, despite the CSE's own directors and affiliates having been implicated in more serious regulatory infractions without similar sanctions. The individuals who brought forth the complaints against the Appellant were not investigated for

similar conduct. The selective targeting of the Appellant raises serious inferences of bias, bad faith, or institutional arbitrariness.

10. Impact on Third-Party Investors and Market Integrity

The flawed process and unfounded decision have had catastrophic consequences for Canadian investors, particularly shareholders of the issuer NEWS. Over four thousand investors have suffered avoidable harm due to the CSE's opaque and heavy-handed approach. This outcome is inconsistent with the CSE's stated mandate of investor protection and undermines confidence in Canadian capital markets.

11. Such further grounds that counsel may advise after a reading of the transcript and this Tribunal may permit

C. DOCUMENTS AND EVIDENCE

In addition to evidence contained in the record of the original proceeding, the Applicant intends to bring a motion to seek to rely on the following documents and evidence at the hearing:

- a. Any other relevant documents brought before the Canadian Securities Exchange.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated this 19th day of June, 2025

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