

CAPITAL MARKETS TRIBUNAL

BETWEEN:

JACK MARKS

Applicant

– and –

CNSX MARKETS INC. and ONTARIO SECURITIES COMMISSION

Respondents

File No. 2025-11

NOTICE OF MOTION (DISCOVERY MOTION)

The Applicant, Jack Marks, will make a motion to the Capital Markets Tribunal on May 8, 2026, at 11:00 a.m. (or as soon thereafter as the motion can be heard), by videoconference as directed by the Tribunal.

This motion is brought only if leave is granted by the Tribunal.

RELIEF REQUESTED

The Applicant seeks:

1. An order requiring CNSX Markets Inc. to produce **targeted documentary disclosure**, including internal communications and emails;
2. An order permitting the Applicant to conduct **limited cross-examinations** of relevant witnesses;
3. Such further and other relief as this Tribunal deems just.

GROUND FOR THE MOTION

A. Governing Principles

1. The Tribunal has authority to order disclosure and permit examination where necessary to ensure a **fair hearing**.
2. Disclosure may be ordered where:

- (a) the requested material is **relevant and material**;
- (b) it is necessary to **test the evidence and ensure fairness**; and
- (c) the request is **proportionate and targeted**.

B. Overview of the Request

3. This motion seeks **limited, targeted disclosure and examination** arising directly from the affidavit and cross-examination of Mark Faulkner.
4. The request is confined to specific:
 - subject matter (PIF and suitability);
 - individuals; and
 - time period.

C. Document Production Request

5. The Applicant seeks production of:

Internal communications, including emails, between the following individuals:

- Mark Faulkner
- Rob Cook
- Rob Theriault
- Trista Cook
- Alexandra Cosgrove

relating to:

- (a) the Applicant's **Personal Information Form (PIF)**;
- (b) the Applicant's **suitability or alleged unsuitability**;
- (c) any **internal discussions or assessments** of the Applicant's involvement with CSC issuers;
- (d) the **January 8, 2024 memorandum**, including its:
 - creation
 - timing
 - authorship
 - underlying basis;
- (e) any communications reflecting **knowledge of the Applicant's conduct prior to and during the relevant transaction**.

6. The requested production is limited to the period from: **April 2022 through the date on which the alleged unsuitability determination was communicated**, or such other period as the Tribunal considers appropriate.

D. Witness Examination Request

7. The Applicant seeks:

(1) New Cross-Examinations

- the opportunity to cross-examine:
 - **Rob Cook;**
 - **Rob Theriault;**
 - **Alexandra Cosgrove**
 - **Trista Cook**

as individuals involved in the relevant decision-making process whose evidence has not been tested.

(2) Limited Further Cross-Examination

- a limited further cross-examination of **Mark Faulkner**, confined to:
 - the **timing and existence of the alleged decision;**
 - the **creation of the evidentiary record**, including after-the-fact materials;
 - the **evolution of the rationale for unsuitability;**
 - areas where questions were **not answered or incomplete** in prior testimony.

E. Relevance and Necessity

8. This request arises directly from admissions in the Faulkner evidence, including:
- that the January 8 memorandum was **created after the fact;**
 - that supporting evidence was **generated significantly later;**
 - that the rationale for the decision **changed over time;**
 - that concerns regarding the Applicant's conduct were **known well before any action was taken.**
9. The requested disclosure and examination are necessary to:
- determine **when and how the alleged decision was actually made;**
 - test the **accuracy and reliability of the Respondents' record;**
 - assess whether the Applicant received **timely notice;**
 - evaluate whether the Applicant was afforded a **fair opportunity to respond;**
 - ensure that the Tribunal is not relying on a **retrospectively constructed or incomplete evidentiary foundation.**

F. Proportionality

10. The request is **narrow and proportionate**, as it is limited to:
- a defined group of individuals;
 - specific subject matter (PIF and suitability);
 - a defined time period;
 - specific issues arising from the existing evidence.

11. The Applicant does not seek general or open-ended discovery.

G. Prejudice

12. There is no unfair prejudice to the Respondents:

- the requested materials are within their control;
- the issues arise directly from their own witness;
- they are already aware of the subject matter.

13. The Applicant will suffer significant prejudice if the request is denied, including:

- inability to test key aspects of the Respondents' case;
- reliance on an **incomplete or unreliable record**;
- denial of a **fair hearing**.

EVIDENCE

14. This motion is supported by:

- the Affidavit of Jack Marks;
- the affidavit of Mark Faulkner;
- the transcript of Mark Faulkner's cross-examination;
- and such further materials as the Tribunal may permit.

APPLICABLE RULES

15. This motion is brought pursuant to the Tribunal's Rules of Procedure and its authority to ensure procedural fairness.

DATE: May 6, 2026

Jack Marks

Applicant (self-represented)