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Citation: *Oasis World Trading Inc (Re)*, 2026 ONCMT 29
Date: 2026-07-21
File No. 2023-38

IN THE MATTER OF
OASIS WORLD TRADING INC.,
ZHEN (STEVEN) PANG and RIKESH MODI

REASONS AND DECISION

(Subsection 127(1) of the *Securities Act,* RSO 1990, c S.5)

Adjudicators:	Mary Condon (chair of the panel) Andrea Burke Sandra Blake	
Hearing:	May 6, 7, 8, 9, 12, 14, 15, 26, 28 and 29, June 2, July 4, September 10, 11, 23, 29 and 30, October 9, 10, 14, 15 and 17, 2025, and January 23, 2026	
Appearances:	Hanchu Chen Emma Seip	For the Ontario Securities Commission
	Janice Wright Greg Temelini	For Oasis World Trading Inc., Zhen (Steven) Pang and Rikesh Modi

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REASONS AND DECISION

1. OVERVIEW

[1] This case involves allegations of market manipulation, unregistered trading and failure to establish and maintain systems of control and supervision, against Oasis World Trading Inc., an Ontario company, and its principals.

[2] Oasis describes itself as a proprietary day trading firm. It is a market participant with more than 600 traders located in China conducting a high volume of day trading using Oasis's trading platform to place trades on Canadian and Australian markets through Oasis's accounts. In Canada, the traders access the market by using direct electronic access (**DEA**), which is provided to Oasis as a client of its executing broker. At its core, this case involves a disagreement about whether the activities of Oasis constitute proprietary trading or are those of a dealer, acting as an intermediary in the marketplace.

[3] The Ontario Securities Commission alleges that from 2018 through 2020:

a. Oasis engaged in the business of trading without registration and without an available exemption from registration;

b. Oasis, and its principals, Zhen (Steven) Pang and Rikesh Modi, engaged in two types of market manipulation:

   i. spoofing, on Canadian and Australian markets, which can take many forms, but which in this case involved placing an order on one side of the market that improved the quoted price of a security, then executing an order on the opposite side of the market for the same security at a price advantage and cancelling the initial order; and

   ii. wash trading on Canadian markets, *i.e.* the same person or company (in this case, Oasis) placing nearly simultaneous buy and sell orders for a security that execute against each other and create a false appearance of trading activity;

c. Oasis lacked adequate systems of control and supervision which, if it were a registrant, would be contrary to the *Securities Act* (the ***Act***);[1]

d. Oasis improperly provided its DEA to unauthorized persons; and

e. Pang and Modi, as officers and directors of Oasis, authorized, permitted, or acquiesced in Oasis's non-compliance with Ontario securities law.

[4] If we do not find that Oasis requires registration, the Commission alleges, in the alternative to the third allegation listed above, that we should find that Oasis, Pang and Modi engaged in conduct contrary to the public interest by failing to establish and maintain adequate systems of control and supervision.

[5] For the reasons that follow, we find that:

a. Oasis engaged in the business of trading in securities, but was not required to be registered because of an applicable exemption;

b. the respondents engaged in market manipulation in the form of spoofing, but did not with respect to wash trading;

c. Oasis (but not the individual respondents) engaged in conduct contrary to the public interest for failure to establish and maintain adequate systems of control and supervision;

d. Oasis improperly provided DEA to unauthorized persons; and

e. Pang and Modi, as officers and directors of Oasis, authorized, permitted, or acquiesced in Oasis's improper provision of DEA to unauthorized Oasis traders.

2. BACKGROUND

[6] Oasis is a self-described proprietary day trading firm that uses DEA to conduct a high volume of trading on Canadian marketplaces. It also engages in day trading on Australian markets. During the relevant period, all trading was conducted by traders located in China. Oasis is federally incorporated and has its head office in Ontario. Oasis has never been registered under the *Act*.

[1] RSO 1990, c S.5 (***Act***)

[7] Pang founded Oasis and is a director and its Chief Executive Officer. He also has the title of Ultimate Designated Person (**UDP**), although he is not registered under the *Act*.

[8] Modi is a director, the Chief Compliance Officer, the Chief Operating Officer and Office Manager of Oasis. He is not registered under the *Act*.

[9] Between December 2012 and November 2019, Oasis entered orders and trades on Canadian marketplaces as a DEA client of JitneyTrade Inc. JitneyTrade was registered as an investment dealer in all provinces and territories of Canada. In June 2018, JitneyTrade was acquired by another registered investment dealer, Canaccord. Oasis's account was transferred to Canaccord in November 2019. From November 2019 and for the balance of the relevant timeframe, Oasis entered orders and trades on Canadian marketplaces as a DEA client of Canaccord. In these reasons we refer to Oasis's Canadian executing broker as JitneyTrade/Canaccord.

[10] Oasis also entered orders and trades on Australian marketplaces through its broker OpenMarkets.

[11] Oasis's business model has not changed since 2012.

[12] The Oasis head office does not generally engage in any trading, in the sense of making trade decisions and implementing those trade decisions by placing the related orders. Rather, trading is carried out in China from approximately 52 independent trading offices with over 600 traders (the **Oasis Traders**) in the aggregate. Each trading office has a Trading General Manager (**TGM**) who has entered into a shareholder agreement with Oasis and has provided a capital contribution to Oasis. The shareholder agreement is the only agreement between any TGM and Oasis. The capital contribution from each TGM to Oasis is required for that TGM (and the Oasis Traders in the TGM's trading office) to begin trading. The capital contribution is currently US$10,000, and it varied between C$3,000 and US$10,000 in prior years.

[13] Each TGM receives the same number of Class B non-voting shares in Oasis uncorrelated to their respective capital contribution. When a TGM ends their relationship with Oasis, the capital contribution is returned, and the Class B shares are relinquished.

[14] Oasis deposits the TGMs' capital contributions into its accounts with its brokers JitneyTrade/Canaccord and OpenMarkets. Each TGM's capital contribution is treated as a security deposit to cover that TGM's office's potential trading losses (*i.e.,* the aggregate trading losses of all Oasis Traders in that particular trading office). The maximum permissible trading loss for each trading office is the TGM's capital contribution. After this maximum permissible trading loss is reached by a trading office, Oasis asks the TGM to send additional money.

[15] Each TGM operates its trading office as a business that is independent from other TGM trading offices and also from Oasis. The trading offices are not subsidiaries of Oasis.

[16] Oasis does not have a contractual relationship with the individual Oasis Traders. Its relationship is solely with the TGMs, that in turn have their own relationships with the Oasis Traders in their respective trading offices. Oasis has no involvement in or visibility into how the individual Oasis Traders in each office are remunerated.

[17] Oasis provides Oasis Traders with access to place trades on Canadian markets through the Oasis DEA account with Canaccord/JitneyTrade and for Australian markets through its account with OpenMarkets. All of Oasis's orders are entered manually by human traders (*i.e.,* the Oasis Traders), and Oasis does not use any algorithmic trading. To trade, Oasis Traders log onto Oasis's in-house proprietary trading platform, Spire, which then transmits the Oasis Traders' orders to Oasis's Canadian or Australian broker for transmission to the applicable marketplace. The orders are transmitted by Spire to Oasis's brokers so long as they do not violate any of Oasis's compliance and risk checks, which are hard-coded into the Spire system.

[18] The money in Oasis's accounts used for trading is Oasis's capital and includes the capital contributions from the TGMs. The TGMs do not have a proprietary claim to, or beneficial interest in, any of the capital in Oasis's accounts. Oasis assigns buying power and net loss limits to each of the Oasis Traders. An Oasis Trader's buying power refers to the amount of money in Oasis's accounts that is available to that Oasis Trader to use for trading. The net loss limits correspond to the maximum amount an Oasis Trader is permitted to lose on trades (netting out

gains and losses). The buying power and net loss limits typically correlate with the particular Oasis Trader's trading performance.

[19] Oasis's revenue consists primarily of two sources:

a. its "head office cut" of the monthly gross trading gains resulting from the Oasis Traders' (including TGMs') day-trading activities, recorded by Oasis in financial statements as "commission income"; and

b. "transaction income" representing markups on transaction costs charged to the trading offices.

[20] The commission income Oasis receives for Canadian markets is 5% to 9% of each trading office's monthly gross trading gains. For Australian markets, Oasis receives 15%. This amount is calculated and taken by Oasis monthly, regardless of the trading office's performance in prior months or its carried losses from prior months.

[21] Oasis then deducts from each trading office's monthly gross trading gains, that trading office's expenses for the month. The expenses that Oasis charges monthly to each trading office include trading fees (calculated on a per share and per trade basis) as well as entitlement expenses paid to each market in order for traders to view live quotes on that market. Oasis marks up the actual trading fees and entitlement expenses it incurs before charging them as expenses to the trading offices. The mark-up of the trading fees results in transaction income to Oasis. Oasis explains the mark-up on the entitlement fees as required to account for foreign exchange fluctuations.

[22] Any trading office's monthly gross trading gains (after deduction of that trading office's expenses for the month) is remitted to the TGM as that office's "monthly settlement". Where a trading office's monthly trading gains are not sufficient to cover that trading office's monthly expenses, that trading office receives no "monthly settlement" payment and is in debt to Oasis for the difference.

[23] In December 2015 Oasis and Pang entered into a settlement agreement with the Commission (**2015 Settlement Agreement**). In the 2015 Settlement Agreement Oasis admitted to failing to:

a. adequately monitor trading activities of Oasis Traders; and

b. ensure there was an adequate compliance structure in place to identify and prevent possible manipulative trading.

[24] The 2015 Settlement Agreement required Oasis to hire a compliance monitor. The Commission approved the compliance monitor. The compliance monitor designed and implemented a new compliance structure for Oasis, conducted an audit of the compliance structure in 2017, and provided a report to the Commission.

3. ISSUES

[25] The issues we must decide are as follows:

a. Did Oasis engage in the business of trading in securities without being registered to do so and without an applicable exemption from the registration requirement, contrary to s. 25(1) of the *Act*?

b. Did the respondents, directly or indirectly, engage or participate in an act, practice or course of conduct relating to securities that they knew or ought reasonably to have known resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, a security, contrary to s. 126.1(1)(a) of the *Act*? In particular, did the respondents engage in market manipulation in the form of either spoofing or wash trading?

c. Did Oasis fail to establish and maintain systems of control and supervision in accordance with the regulations for controlling its activities and supervising its representatives, contrary to s. 32(2) of the *Act*?

d. If Oasis is not required to be registered, and therefore not subject to s. 32(2) of the *Act*, should we nevertheless make a finding against Oasis, Pang and Modi that they acted contrary to the public interest?

e. Did Oasis provide DEA to unauthorized persons contrary to s. 4.7(4) of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**)?

f. Did Pang and Modi, as officers and directors of Oasis, authorize, permit, or acquiesce in Oasis's non-compliance with Ontario securities law, and are therefore deemed, pursuant to s. 129.2 of the *Act,* to also have not complied with Ontario securities law?

[26] We will examine each of these issues in turn.

4. ANALYSIS

4.1 Engaging in the business of trading without registration

4.1.1 Introduction

[27] Registration is a cornerstone of the *Act's* regulatory framework. It is a key gate-keeping mechanism that protects investors and capital markets by requiring those engaged in the business of trading in securities to: (a) demonstrate the requisite proficiency, integrity and solvency; and (b) satisfy substantive obligations.[2] Unregistered trading defeats these legal protections and undermines the goals of investor protection, public confidence in, and the integrity of, the capital markets.[3]

[28] The registration requirement in s. 25(1) of the *Act* applies to those who engage in or hold themselves out as engaging in the business of trading in securities, unless an exemption is available.

[29] The parties agree that Oasis is in the business of trading in securities. However, they disagree about whether an exemption is available to it.

[30] We find that an exemption applies to the activities of Oasis and therefore Oasis is not required to be registered under the *Act.* Accordingly, Oasis did not breach s. 25(1) of the *Act*.

4.1.2 Oasis is in the business of trading securities

[31] The concept of "trade" or "trading" under the *Act* is broad.[4]

[32] Oasis, through the Oasis Traders, places tens of thousands of trades every month on Canadian and Australian markets through Oasis's accounts at JitneyTrade/Canaccord and OpenMarkets, respectively.

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[2] *Hogg (Re)*, 2024 ONCMT 15 (***Hogg***) at para 187; *Limelight Entertainment Inc (Re),* 2008 ONSEC 4 at paras 135-136; *Meharchand (Re)*, 2018 ONSEC 51 (***Meharchand***) at para 107

[3] *Manticore Labs OÜ (Re)*, 2024 ONCMT 19 (***Manticore***) at para 18

[4] *Act,* s 1(1)

[33] Oasis carries on this activity with repetition, regularity, and continuity and expects to receive compensation for this activity, meeting the "business trigger" test described in the Companion Policy to National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**Companion Policy 31-103CP**). This test has been consistently applied by this Tribunal.[5]

[34] We therefore find that Oasis is in the business of trading securities. Having so found, we turn next to consider whether there is an exemption from the registration requirement under s. 25(1) of the *Act* that is available to Oasis.

4.1.3 An exemption from the registration requirement is available to Oasis

[35] Oasis bears the burden of establishing that an exemption from the registration requirement is available to it.[6]

[36] Oasis advises that since its inception it has relied on the exemption set out in s. 8.5(a) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**). Its business model has not changed since its inception, and it submits that the exemption continues to apply.

[37] Section 8.5 of NI 31-103 provides:

> **Trades through or to a registered dealer**
>
> 8.5 The dealer registration requirement does not apply to a person or company in respect of a trade in a security if either of the following applies:
>
> (a) the trade is made through a registered dealer, if the dealer is registered in a category that permits the trade unless, in furtherance of the trade, the person or company seeking the exemption solicits or contacts directly any purchaser or prospective purchaser in relation to the trade;
>
> (b) …

[5] For example, see *Mek Global Limited (Re)*, 2022 ONCMT 15 (***Mek Global***) at paras 70-72 and *VRK Forex & Investments Inc (Re)*, 2022 ONSEC 1 at paras 124-126

[6] *Mek Global* at para 80; *Manticore* at para 30

[38] The Commission submits that the exemption does not apply to Oasis. The parties' positions about the availability of the exemption diverge for two principal reasons:

a. they approach the interpretation of s. 8.5(a) in fundamentally different ways; and

b. they characterize the nature of the Oasis business and the relationship between Oasis and the Oasis Traders differently.

4.1.3.a Oasis's submissions about the exemption

[39] Oasis submits that in order to decide whether the exemption applies to its activities, we must begin by considering the plain language of the exemption. It submits that the text of the exemption should anchor our interpretation of it.

[40] Oasis submits that it is common ground that all Oasis Canadian market trades were made through JitneyTrade/Canaccord, which is a registered investment dealer with the Canadian Investment Regulatory Organization (**CIRO**), formerly the Investment Industry Regulatory Organization of Canada (**IIROC**). As a registered investment dealer, JitneyTrade/Canaccord is registered in a category that permits the Oasis trades that were made through it.

[41] Because the first part of s. 8.5(a) is satisfied (*i.e.*, the trades were made through a registered dealer and the dealer is registered in a category that permits the trades), Oasis submits that the exemption applies to its activities unless the limiting language meant to narrow the availability of the s. 8.5(a) exemption (**the carve-out language**) is engaged.

[42] Not every trade made by a person or company through an appropriately registered dealer will qualify for the exemption. The exemption is not available where the person or company seeking the exemption "solicits or contacts directly any purchaser or prospective purchaser in relation to the trade".

[43] Oasis submits that the word "the" before each instance of "trade" in s. 8.5(a) is specific, meaning that the exemption does not refer to trading or a trade in the abstract, generally, or at large. Instead, the carve-out language in the exemption refers to a specific purchase or prospective purchase of a specific security.

[44] Oasis next submits that a solicited trade is one in which a person or company recommends that a client buy a specific security. To "contact directly" also suggests communicating about the trade in the specific security. Finally, the phrase "any purchaser or prospective purchaser" refers to a person or company who is ultimately putting up the capital to finance the transaction. To be a "purchaser" means to pay for the security.

[45] Oasis submits that, when read in context, the text of s. 8.5(a) is clear in its meaning: a trade by a person or company through a registered dealer is exempt from registration unless, in relation to the specific security, the person or company (sometimes referred to as a finder) advises the purchaser to purchase the security or otherwise contacts the purchaser directly to connect them to a seller to purchase the security. The purchaser is the one financing the purchase of the security.

[46] Oasis submits that because the carve-out language in the exemption does not describe the activities of Oasis in relation to its trades through JitneyTrade/Canaccord, the exemption is available to Oasis.

4.1.3.b The Commission's submissions about the exemption

[47] The Commission focuses on the overall policy objectives of the *Act*. The Commission submits that we should read the exemption purposively and consider the regulatory objectives of the *Act*.[7] Any exemption to the broad prohibition against unregistered trading in s. 25(1) of the *Act* should also be interpreted and applied narrowly to ensure that the overarching rationale for the prohibition is not undermined.[8]

[48] It further submits that as innovation continues in the capital markets, the language in the *Act* and the tests developed in Tribunal decisions must be interpreted through the lens of the purposes of the *Act* to ensure that the risks and benefits of innovative products and services that engage those purposes are

[7] *MI Developments Inc (Re),* 2009 ONSEC 47 at para 77, citing *Bell ExpressVu Limited Partnership v Rex,* 2002 SCC 42 at para 26

[8] *Kraft (Re)*, 2023 ONCMT 36 at paras 266-267 (applying the "in the necessary course of business" exception to the s. 76(2) prohibition against disclosure of material non-public information narrowly)

managed appropriately within the regulatory framework of Ontario's securities law.[9]

[49] The Commission makes a number of submissions that the exemption is inapplicable to Oasis. Summarized at a high level, these submissions are:

a. the exemption does not apply to market intermediaries such as Oasis;

b. the Oasis trades do not satisfy the language of the exemption;

c. a finding that the exemption applies to Oasis would be inconsistent with the securities regulation regime in Canada, would render the Ontario securities registration regime ineffective, and would erode the principles underlying the *Act*; and

d. the evolution of the language of the exemption (and the related guidance in Companion Policy 31-103CP) does not favour an interpretation that the exemption applies to Oasis.

[50] Having considered the parties' submissions, we find that the exemption is available to Oasis. Our analysis and our consideration of the parties' submissions are set out below.

4.1.3.c Oasis is not a market intermediary

[51] Instead of focusing on the actual language of the carve-out to the exemption, the Commission urges us to find that Oasis is a market intermediary and submits that a purposive reading of the exemption requires a finding that it is not available to Oasis, because the exemption does not apply to market intermediaries. For the following reasons, we reject the Commission's submission that the relevant question to be answered in deciding whether the exemption in s. 8.5(a) is available to Oasis is whether Oasis is a market intermediary. Instead, we focus our analysis on the language of the exemption.

[52] As authority for the proposition that market intermediaries ought to be registered and the exemption in s. 8.5 is not available to them, the Commission cites *Pro-Financial Asset Management (Re)* (***PFAM***).[10]

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[9] *Polo Digital Assets, Ltd (Re),* 2022 ONCMT 32 (***Polo Digital***) at para 40
[10] 2017 ONSEC 9 (***PFAM***) at paras 64-67

[53] The essence of the Commission's submission is that Oasis is a market intermediary because:

a. Oasis gives the Oasis Traders (who the Commission says are the ultimate purchasers of the securities traded through the Oasis account at JitneyTrade/Canaccord) a platform and access to trade on the Canadian markets; and

b. Oasis itself is not truly a proprietary day trading firm.

[54] In sum, the Commission submits that Oasis's business model is one where it sends trades to the market on behalf of others who wish to access global markets and, in exchange, Oasis receives a small percentage of commission and a flat per-trade transaction fee.

[55] The Commission points to the following elements of Oasis's business model and relationship with the Oasis Traders that it says make Oasis a market intermediary:

a. First, Oasis describes itself as delivering proprietary trading services and its website advertises these services. Traders have access to markets for the purpose of engaging in electronic day trading.

b. Second, the relationship between Oasis and the Oasis Traders suggests that the traders are customers or clients and head office personnel are customer service agents. The Oasis Traders are not employees or contractors of Oasis and are kept at arm's length. They act independently and compete with other Oasis Traders for fills on the market. The Commission submits that the Oasis Traders are the beneficial owners of securities they purchase. As we explain below, the respondents dispute this characterization of beneficial ownership.

c. Third, Oasis's business is akin to a broker or dealer where the economic interests of Oasis are not aligned with the interests of the Oasis Traders by virtue of Oasis: (1) earning transaction income, (2) being protected against trading losses, and (3) applying a head office cut on gross trading gains before accounting for an office's expenses or carried losses from a previous month.

[56] There is no reference to "market intermediary" in the exemption nor is there in the commentary about the exemption that appears in Companion Policy 31-103CP. We disagree that *PFAM* stands for the proposition that the relevant inquiry as to whether the s. 8.5(a) exemption is available is to determine whether Oasis is a market intermediary.

[57] In *PFAM*, the focus of the Tribunal's decision was whether PFAM was engaged in activities requiring registration. The Tribunal focused on whether PFAM's activities met the business trigger test in Companion Policy 31-103CP, including whether PFAM was "intermediating trades" between a seller and buyer of securities. The Tribunal found that PFAM interposed itself between the issuers of the securities (the banks) and the investing public, and was engaged in the distribution, marketing and sale of the issuers' securities to the investing public, making it a market intermediary and making its activities clearly registrable.[11] The Tribunal considered the availability of the exemption in s. 8.5 in the narrower context of one of PFAM*'s* principal's (McKinnon) submission that, even if registration was required for PFAM to distribute the securities, the exemption in s. 8.5 was available to PFAM with respect to its activities in the secondary market related to redemptions of the securities. McKinnon submitted that these latter activities were analogous to those of a back office and did not involve any solicitation of, or advice to, clients by PFAM. The Tribunal did not focus on the specific language of the carve-out to the exemption, but did reject this submission because PFAM*'s* roles and responsibilities were extensive, and not limited to that of a back-office entity.[12]

[58] While some of the activities of a market intermediary may very well engage the carve-out to the exemption, we agree with Oasis that the starting point for considering whether the carve-out applies here is the language of the carve-out itself.[13] As such, we focus our analysis on whether Oasis "solicits or contacts

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[11] *PFAM* at paras 65 and 67

[12] *PFAM* at paras 64-67

[13] *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Directrice de la protection de la jeunesse du CISSS A*, 2024 SCC 43 at para 24; *Kosicki v Toronto (City)*, 2025 SCC 28 at para 37; *Reference re iGaming Ontario*, 2025 ONCA 770 at paras 137-138

directly any purchaser or prospective purchaser in relation to the trade", rather than whether Oasis is a market intermediary.

4.1.3.d Analysis of remaining submissions

[59] Oasis submits that its activities do not engage the carve-out because it, and not the Oasis Traders, is the purchaser in relation to the trades, and it does not solicit or contact directly (that is, communicate with) any Oasis Traders about any specific trades. Oasis does not dictate any trading strategy, nor does it provide advice to Oasis Traders about specific securities to trade. Instead, the Oasis Traders make independent decisions about what trades to make.

[60] The Commission submits that Oasis's activities do engage the carve-out, because any purchase of a security in Oasis's accounts involves two purchasers: Oasis *and* the Oasis Trader who entered the order. It also submits that Oasis (as the company seeking the exemption) cannot rely on the exemption because it solicits or contacts the purchaser (the Oasis Trader). In this regard, the Commission submits that making Spire available to Oasis Traders is a standing solicitation or invitation to trade, with the Oasis Traders being the purchasers or prospective purchasers of the securities. The Commission cites *Polo Digital* and *Bybit Fintech Limited (Re)*[14] in support of its position. Both these cases involved unregistered trading platforms where investors could buy and sell crypto assets. In both cases, the respondents that made the trading platforms available were in breach of the registration obligation.[15]

[61] The Commission submits that the word "purchaser" in the carve-out to the exemption should be interpreted to include not just buyers of securities, but also sellers of securities to ensure that the exemption is more "harmonious with the securities regulatory regime in Ontario".

[62] The Commission also submits that because the exemption is only available to the person or company in respect of a trade made by that person or company, it is not available to Oasis. It submits that, as a corporate entity, Oasis can only take corporate actions through the actions of its "authorized personnel", namely its

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[14] 2022 ONCMT 16 (***Bybit***)
[15] *Bybit* at para 11; *Polo Digital* at para 83

officers, directors and employees. Because the Oasis Traders are customers and clients of Oasis, and not authorized personnel of Oasis, their trades are not Oasis trades.

[63] Other than Oasis's submission (without supporting authority) that the "purchaser" is the one who pays for the security, neither Oasis nor the Commission offered any authority defining "purchaser" as it appears in the carve-out language of the exemption.

[64] Applying a commonsense understanding of the meaning of "purchaser" and considering all of the evidence about the nature of the Oasis business and the relationship between Oasis and the Oasis Traders, we find that the Oasis Traders execute trades on behalf of Oasis and for the account of Oasis and, when the orders they place are filled, securities are purchased or sold on behalf of Oasis. In other words, the purchaser (and seller) of securities is Oasis, and not the Oasis Traders, because:

a. Oasis has the trading account at JitneyTrade/Canaccord, and all trades occur through that account;

b. the trades are made using Oasis's trading ID;

c. the securities are purchased with Oasis's capital;

d. Oasis Traders are only allocated buying power by Oasis, and do not keep any capital from their trades;

e. TGMs are paid a portion of trading profits by Oasis and independently remunerate their respective Oasis Traders; and

f. Oasis is responsible for covering any shortfalls in its capital account at JitneyTrade/Canaccord.

[65] Our finding that Oasis is the purchaser of securities is supported by the testimony of Danielle Raymond, JitneyTrade/Canaccord's Chief Compliance Officer, who confirmed that JitneyTrade/Canaccord considers Oasis to be the purchaser.

[66] We reject the Commission's submission that even Oasis views the Oasis Traders as the beneficial owners of the securities that are traded in the Oasis account.

Instead, we accept Oasis's submission that it allocates securities to sub-accounts for each trader for internal recordkeeping purposes only and solely to determine the profits earned through the trading activity of each individual trader. We find that these sub-accounts do not in any way reflect that the Oasis Traders are the owners (and thus, the purchasers and sellers) of the securities that they trade.

[67] We reject the Commission's submission that there are simultaneously two purchasers of the traded securities - both Oasis and the Oasis Trader. The Commission did not explain the mechanics to support this proposition, and we find it unsupported by the evidence.

[68] We also reject the Commission's submission that the word "purchaser" should be read to include "sellers of securities". There is no ambiguity in the language of the exemption. We must assume that the regulator's use of "purchaser" was deliberate.

[69] We also reject the Commission's submission that the trades in question are not Oasis trades, when they are made in Oasis's account. The Commission provided no authority for the proposition that Oasis, as a corporate entity, can make trades only through the actions of its officers, directors and employees. Indeed, the facts here confirm the opposite. Further, we note that this submission contradicts the Commission's submission that both Oasis and the Oasis Traders are purchasers of the traded securities, but is not advanced as a submission in the alternative.

[70] We also reject the Commission's submission that making Spire available to traders is a standing solicitation or invitation to trade to the Oasis Traders. We distinguish *Polo Digital* and *Bybit*. In those cases, a trading platform was made available to the investing public. Individuals put up their own money and were the purchasers of the crypto assets. We are not persuaded that Oasis Traders are the same as the investing public in those cases. Spire is available to Oasis Traders only once they are onboarded and authorized by Oasis. The platform is not available to the public, and the Oasis Traders are trading with Oasis's capital.

[71] In sum, we agree with Oasis that, through the activity of the Oasis Traders, it engages in proprietary day trading on its own behalf. We did not find Oasis's online description of its business as providing proprietary trading services to be

sufficient to displace this finding. While Oasis may offer a service, that service is offering an arrangement to Oasis Traders that allows them to conduct proprietary trading on behalf of Oasis. Equally, the terms used to describe head office and trading functions (*i.e.*, head office personnel are described as customer service agents and traders are described as customers or clients), while admittedly problematic, are not dispositive of the actual nature of the Oasis business and relationship with the Oasis Traders, nor the question of who owns the securities that are traded.

[72] We considered the Commission's submission that a finding that the exemption applies to Oasis would be inconsistent with and erode the principles underlying the securities registration regime and the *Act*. In particular, the Commission submitted that:

a. a finding that the exemption applies to Oasis would be inconsistent with NI 23-103, which the Commission submits generally prohibits a DEA client (such as Oasis) of a participant dealer from passing on its DEA to external, unregulated traders who are its "customers" and "clients"; and

b. from a policy perspective, the exemption cannot be interpreted to permit an unregistered company (such as Oasis) to provide DEA to hundreds of independent, foreign traders, because this would result in reduced transparency of market activity, reduced enforcement capabilities of self-regulatory organizations such as CIRO, lower compliance standards, reduced investor protection, and reduced transparency of funds.

[73] The Commission's argument in (a) above about an inconsistency presumes that we first find that Oasis's business model is not proprietary trading, that is, that the Oasis Traders are not trading for Oasis's account using Oasis's capital. We agree that dealers who are acting as, and registered as, dealers ought to access the markets through routing arrangements as regulated under Universal Market Integrity Rules (**UMIR**). However, pursuant to NI 23-103, a proprietary trading firm that is a DEA client of a registered dealer is explicitly permitted to authorize personnel to trade on its behalf. There are no limitations as to employment status or number of traders attached to this permission. We note that the

Commission has separately alleged that Oasis has breached s. 4.7(4) of NI 23-103. That allegation is addressed below in these reasons.

[74] With respect to the Commission's argument in (b) above, we find that while it is important to consider the regulatory objectives of the *Act*, we cannot ignore the plain meaning of the text of the exemption or attempt to stretch the meaning of the text to capture activity beyond the scope of the language. We are sympathetic to the Commission's policy objectives in connection with this business model, but we are unable to make the provision in its current form fit those objectives.

[75] We also considered the Commission's submission that the evolution of the language of the exemption in s. 8.5(a) (as well as the history of what has been said about the exemption in various iterations of Companion Policy 31-103CP) "does not favour" a reading that the exemption extends to Oasis.[16] We reject this submission. Ultimately, what matters here is our conclusion that Oasis is the purchaser of the securities that are traded, is investing its own capital and is not soliciting the Oasis Traders (or the investing public) to trade. We conclude that no iteration of 31-103CP (or prior iteration of the exemption) offers any guidance that addresses the factual circumstances of this case, or that can be construed as intending to carve out from the exemption the type of proprietary day trading activity that Oasis conducts through the Oasis Traders.

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[16] National Instrument 31-103 *Registrant Requirements and Exemptions*, (July 17, 2009), (2009) 32 OSCB (Supp-2), at s 8.5 p 212, online (pdf): https://www.osc.ca/sites/default/files/pdfs/irps/rule_20090717_31-103_national-instrument.pdf; Companion Policy 31-103CP *Registrant Requirements and Exemptions*, (July 17, 2009), (2009) 32 OSCB (Supp-2) at s 8.5 p 280 (emphasis added), online (pdf): https://www.osc.ca/sites/default/files/pdfs/irps/rule_20090717_31-103_companion-policy.pdf; Companion Policy 31-103CP Registra*tion Requirements, Exemptions, and Ongoing Registrant Obligations*, (April 15, 2011), (2011) 34 OSCB (Supp-3), at s 8.5 p 166, online (pdf): https://www.osc.ca/sites/default/files/pdfs/irps/rule_20110415_31-103_amended.pdf; CSA Notice and Request for Comment "Proposed Amendments to NI 31-103, 31-109, NI 52-107, OSC Rule 33-506 and OSC Rule 35-502 and related Forms" (December 5, 2013), (2013) 36 OSCB (Supp-7), at s 8.5 p 6, online (pdf): https://www.osc.ca/sites/default/files/pdfs/irps/ni_20131205_31-103_proposed-amendments.pdf; Brian Koscka "Finders And Referral Agents Beware! Proposed Changes For Unregistered Individuals In Canada", Mondaq (March 12, 2014) at p 2; Private Capital Markets Association of Canada (Comment Letter), (March 5, 2014), at p 14: https://www.osc.ca/sites/default/files/pdfs/irps/comments/com_20140310_31-103_koscakb.pdf; CSA Notice, "Final Amendments to NI 31-103, 31-109, NI 52-107, (October 16, 2014), OSC Rule 33-506 and OSC Rule 35-502 and related Forms" (2014), 37 OSCB (Supp-5), at p 14, online: https://www.osc.ca/sites/default/files/pdfs/irps/ni_20141016_final-amendments-related-forms.pdf

[76] The parties also made submissions about the significance of the settlement in *Maritra Trading Services Inc (Re).*[17] In that case, Maritra traders engaged in market manipulation. In the settlement that was approved by the Nova Scotia Securities Commission, the parties agreed that Maritra was not engaged in activities that required registration because the exemption in s. 8.5 of NI 31-103 was available to it.[18] Instead, Maritra: (i) was an unregistered firm engaged in the business of proprietary day trading using its own capital, with no clients or business dealings with the investing public, (ii) had approximately 66 traders located in China, and (iii) was a DEA client of JitneyTrade/Canaccord.[19] Because this decision was a settlement approval, and no reasons were issued by the panel approving it, we do not find it persuasive. We simply note the factual similarities between Maritra's business model and Oasis's model.

[77] Oasis established that its reliance on the exemption was previously disclosed to the Commission during the investigation that resulted in the 2015 Settlement Agreement and was not raised as an issue by the Commission at the time. Oasis submits that this is evidence that the Commission has changed its mind about how to interpret the exemption and is seeking to use the enforcement process to amend the meaning of the exemption. We did not place any weight on this submission in deciding this issue.

[78] For the foregoing reasons we therefore find that the exemption from registration in s. 8.5(a) of NI 31-103 is available to Oasis and Oasis did not breach s. 25(1) of the *Act.*

4.2 Market manipulation

4.2.1 Introduction

[79] The Commission alleges that the respondents engaged in market manipulation contrary to s. 126.1(1)(a) of the *Act*. The parties agree on the elements that need to be proved to conclude that there was a contravention; namely:

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[17] 2022 NSSEC 6 (***Maritra Settlement Agreement***)
[18] *Maritra Settlement Agreement* at para 15
[19] *Maritra Settlement Agreement* at paras 9, 15 and 22

a. a person or company directly or indirectly engaged in an act, practice or course of conduct related to securities;

b. the course of conduct caused a misleading appearance of trading activity or created an artificial price for a security; and

c. the person or company knew or ought reasonably to have known that the course of conduct would cause a misleading appearance of trading activity or create an artificial price for a security.

[80] The parties disagree, however, whether the Commission's evidence meets the threshold required to establish market manipulation.

[81] The Commission alleges that the respondents engaged in two different types of market manipulation, referred to as "spoofing" and "wash trading", respectively. Below we address each set of allegations. We find that the respondents engaged in spoofing in a subset of the instances alleged by the Commission. However, the respondents lacked the requisite intent for us to make a finding of market manipulation related to wash trading.

4.2.2 The Tribunal has jurisdiction over the alleged manipulative trading activity on Australian markets

[82] The Commission alleges that the respondents engaged in spoofing on both the Canadian and the Australian marketplaces.

[83] As a preliminary issue, we must determine whether we have jurisdiction over the respondents' alleged manipulative trading on Australian marketplaces. The Commission submits that we do. The respondents did not make any submissions that the Tribunal lacks jurisdiction.

[84] The Tribunal's jurisdiction is engaged where there is a sufficient connection between Ontario and the impugned activities.[20] There are various factors that may establish a sufficient connection to Ontario, including:

a. whether the respondents reside or are based in Ontario;[21]

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[20] *Sharp v Autorité des marchés financiers,* 2023 SCC 29 (***Sharp***) at paras 103-125; *Meharchand* at para 48; *Ontario Securities Commission v DaSilva,* 2017 ONSC 4576 (Sup Ct) at paras 54-57; *Crowe v Ontario Securities Commission,* 2011 ONSC 6918 (Div Ct) (***Crowe***) at para 32

[21] *Meharchand* at para 49; *Crowe* at paras 18-19 and 34-35

b. whether the respondents carry on business in Ontario;[22]

c. whether the relevant misconduct was committed in Ontario;[23]

d. whether a contract connected to the dispute was made in Ontario;[24] and

e. whether Ontario's capital markets are engaged.[25]

[85] We find that there is a real and substantial connection between Ontario and the impugned activities in the Australian markets.

[86] The respondents reside in Ontario and carry on business from the Oasis head office located in Ontario. Oasis carries out its activities of recruiting TGMs from Ontario. From Ontario, it also provides capital, market access, trading software, and training materials, all used for trading on the Australian marketplace. The TGMs, who were responsible for overseeing the Oasis Traders who allegedly engaged in spoofing on the Australian markets, signed Ontario-based shareholder agreements. Oasis opened its Australian broker account with OpenMarkets from Ontario and all of the relevant trading on the Australian markets occurred through this Oasis account with OpenMarkets. The "sufficient connection" analysis "must recognize the transnational nature of modern securities regulation and the public interest in addressing international market manipulation".[26]

4.2.3 The spoofing allegations

[87] The Commission alleges that the respondents engaged in market manipulation in the form of 239 instances of spoofing on Canadian markets between 2018 and 2020, and 404 instances of spoofing on Australian markets in 2018, for a total of 643 instances.

[88] Spoofing is a type of market manipulation. At a general level, it has been described as "placing orders with the intent to fool the market and thereby to

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[22] *Meharchand* at para 49; *Crowe* at paras 18-19 and 34-35
[23] *Meharchand* at para 49; *Crowe* at paras 18-19 and 34-35
[24] *Doulis (Re)* 2014 ONSEC 31 at para 24
[25] *Reference re Securities Act,* 2011 SCC 66 at para 45
[26] *Sharp* at para 128

induce other market participants to respond in a way that provides the spoofer with some benefit".[27]

[89] While spoofing can take many forms,[28] it often involves:

a. placing a "bait order" or "non-bona fide order" on one side of the market to bait other market participants to enter better priced orders, thus improving the quoted price of a security;

b. executing an order on the opposite side of the market for the same security at a price advantage; and

c. then cancelling the initial non-bona fide order.[29]

[90] This is the type of spoofing that the Commission submits occurred with respect to 582 (or all but 61) instances of the alleged spoofing. The key element to all 582 instances of alleged spoofing is the Commission's allegation that Oasis Traders entered orders *that they did not intend to execute* (*i.e.*, non-bona fide orders). They did this in order to create a misleading appearance of market activity and improve the quoted price of the security, from which Oasis Traders (either the same Oasis Trader who placed the initial non-bona fide order, or another Oasis Trader in the same trading office as the Oasis Trader who placed the initial non-bona fide order) benefitted by executing an order for the same security on the opposite side of the market at a price advantage over the market condition that existed before the non-bona fide order was entered. They then cancelled the non-bona fide order. The Commission's case is based entirely upon circumstantial evidence which the Commission submits amply supports the inference that in each of these 582 instances the cancelled orders were non-bona fide and the Oasis Traders never intended to execute them.

[91] The remaining 61 instances of alleged spoofing, all of which occurred on the Canadian markets, involved the cancellation (or appearance of cancellation) of an initial order placed by an Oasis Trader after that order improved the existing price quote and *another* Oasis Trader in *another* trading office executed an order

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[27] *In the Matter of Janice Anne Thoroski and Clair Stuart Calvert* (July 16, 2021), Calvert – 001 (MSC) (***Thoroski***) at para 86

[28] *Thoroski* at paras 90-93

[29] *Thoroski* at paras 90-91; *Jitney Trade (Re)*, 2017 IIROC 25 at para 42

for the same security on the opposite side of the market at a price advantage. Although the Commission acknowledges that it cannot establish that the initial orders in these 61 instances were non-bona fide and placed without an intention to execute them, the Commission submits that these 61 instances nevertheless are also examples of market manipulation because they created a misleading appearance of market activity. We note that there was uncertainty between the parties whether the number of alleged instances involving misleading trading activity but not an artificial price was 61 or 62. We refer to 61, though the difference is immaterial to our findings. We also note that 12 of these 61 instances involved initial orders that were automatically cancelled (or suppressed) from the tape by operation of a self-trade prevention tag (or STP tag) designed to suppress from the public record trades that occurred where an Oasis Trader was on both sides of the trade. These were circumstances where the initial order was not actually cancelled by the Oasis Trader who placed it and, instead, the initial order was filled with another Oasis Trader in another office on the other side of the trade.

[92] Due to differences between the Canadian and Australian markets arising from the fact that Australia has only two markets and in Canada the quotes on all protected markets are consolidated into the national best bid and offer (**NBBO**), the mechanics of the alleged Canadian and Australian spoofing instances are somewhat different.

[93] For the Canadian instances of alleged spoofing, the Commission alleges that the initial order that was entered moved the NBBO to a more favourable point. Then either the same or another trader would enter orders on the other side of the bid/ask, following which the trader who entered the initial order would cancel it without execution taking place.

[94] For the Australian instances of alleged spoofing, the Commission alleges what is called "locked and crossed market spoofing" (**LCMS**). Because Australia has only two markets (*i.e.*, the Australian Stock Exchange and Chi-X Australia), locked and crossed market conditions occur when:

a. the best bid price on one market is the same or higher than the best offer price on the other market; or

b. the best offer price on one market is the same or lower than the best bid price on the other market.

[95] In this case, the Commission alleges that the initial order was entered on one of the two Australian markets to "lock or cross" the market, allowing the same or another Oasis Trader to execute trades on the other Australian market on the opposite side of the initial order at a more favourable price, after which the Oasis Trader who placed the initial order cancelled it without it being executed.

4.2.4 The Commission's evidence regarding spoofing

[96] To identify the alleged instances of spoofing, the Commission's investigator first applied a number of filters or parameters to each day's trading data during the relevant period. He subsequently manually reviewed the instances resulting from application of the filters and employed an iterative approach to narrow the instances down to those that he believed to be more indicative of spoofing.

[97] The investigator applied the following filters (all of which had to be present) to the Canadian trading data:

a. the initial order was placed and cancelled within 120 seconds, <u>or</u> the initial order was cancelled within 30 seconds of execution of the order placed on the opposite side of the market at an improved price;

b. the initial order improved the NBBO, meaning that if the initial order was on the buy side, the price of the initial order must be higher than the national best bid, and if the initial order was on the sell side, the price of the initial order must be lower than the price of the national best offer;

c. the initial order received no fills;

d. no Oasis Trader received any fills on the same side as the initial order between the entry and cancellation of that initial order;

e. at the time of cancellation of the initial order, there were no open Oasis orders of any Oasis Trader on the same side as the initial order at the same or a better price; and

f. while the initial order was on the market, an Oasis Trader (not necessarily the same Oasis Trader who placed the initial order) executed an order on the opposite side of the market at an improved price.

[98] The investigator applied the following filters (all of which had to be present) to the Australian trading data, which was taken from multiple instances of suspected LCMS that the Australia Securities and Investment Commission (**ASIC**) referred to the Commission:

a. the Australian markets were not in a locked or crossed position before the initial Oasis order was placed;

b. the initial order locked or crossed the market, meaning that it improved the best bid or best offer on the market where it was placed;

c. the initial order was placed and cancelled within 120 seconds;

d. the initial order received no fills;

e. the Oasis Trader who placed the initial order did not receive any fills on orders on the same side as the initial order between the entry and cancellation of the initial order;

f. at the time of cancellation of the initial order, the Oasis Trader who placed the initial order did not have any open orders on the same side of the market as the initial order at the same or a better price; and

g. between the entry and cancellation of the initial order, an Oasis Trader (not necessarily the same Oasis Trader who placed the initial order) executed orders on the other Australian market on the opposite side of the initial order at an improved price.

[99] Other than differences in the filters to take into account locked and crossed markets in Australia, the filters the investigator applied to the Canadian and Australian data were the same, except for two elements:

a. whereas the Australian filters only captured instances where the initial order was placed and cancelled within 120 seconds, the Canadian filters also captured instances where the initial order was cancelled within 30 seconds of execution of an order on the opposite side of the market at an improved price; and

b. whereas the Canadian filters eliminated instances where *any* Oasis Trader received fills on the same side as the initial order or had open orders on the same side as the initial order at the same or a better price at the time the initial order was cancelled, the Australian filters only eliminated instances where the fills were received or open orders were placed by the *same* Oasis Trader who placed and cancelled the initial order.

[100] The Commission's investigator testified that he selected the 120-second interval because it would be enough time to reasonably capture potentially manipulative activity on illiquid securities, but not so long that it would capture thousands of lines of trading data on liquid securities. He also explained that the additional 30-second parameter was added to the Canadian filters to capture instances of potential spoofing on illiquid securities, by focussing on a trader's reaction to the execution of an order on the opposite side of the market at an improved price.

[101] The Commission's investigator explained that the Australian filters, to eliminate instances where fills were received or open orders were placed by the *same* Oasis Trader who placed and cancelled the initial order, were designed to eliminate instances where the Oasis Trader had demonstrated interest in the security at the same price or a better price than the initial order. The investigator explained that the reason the Canadian filters were not so narrowly constructed and instead applied to *any* Oasis Trader was because the Canadian data he initially filtered did not include individual trader ID information for Oasis Traders.

[102] For each instance of alleged spoofing, the investigator introduced spreadsheets with the trading data for the relevant security, beginning with the last available quote(s) immediately before the initial order was placed and ending with the quote immediately after cancellation of the initial order. The investigator also prepared and introduced highlighted copies of this trading data separately identifying Oasis Traders' buy-side activities and sell-side activities, respectively.

[103] The Commission's submissions divide the instances of alleged spoofing into three different categories:

a. where the same Oasis Trader is on both sides of the trading sequence, *i.e.*, where the same Oasis Trader places the initial order that is cancelled and places the order on the opposite side of the market that is executed at an improved price;

b. where at least two different Oasis Traders from the same Oasis office are involved in the trading sequence, *i.e.*, the Oasis Trader who places the initial order that is cancelled works in the same trading office as the Oasis Trader who places the order on the opposite side of the market that is executed at an improved price; and

c. the 61 instances mentioned above where traders from at least two different Oasis trading offices are involved in the trading sequence, *i.e.*, the Oasis Trader who places the initial order that is cancelled (or appears to be cancelled) does not work in the same trading office as the Oasis Trader who places the order on the opposite side of the market that is executed at an improved price.

[104] These categories are considered below, as they have potentially different implications for inferences that can reasonably be drawn about the particular trading sequences and the traders' intentions.

[105] We next turn to consider the application of the three elements of the market manipulation test to the evidence. The parties disagree whether the last two parts of the test are satisfied. In the context of this consideration, we address the respondents' various submissions that the Commission's evidence is inadequate to establish market manipulation.

4.2.5 Application of the elements of market manipulation to the facts

4.2.5.a A person or company directly or indirectly engaged in an act, practice, or course of conduct relating to securities

[106] The respondents accept that the first element of market manipulation, namely that "a person or company directly or indirectly engaged in an act, practice, or course of conduct relating to securities", is established. Trading in securities is an act, practice, or course of conduct relating to securities. Oasis, Pang and Modi were directly or indirectly engaged in trading securities in the alleged instances

of spoofing on Canadian and Australian markets. Despite the number of Oasis Traders involved, all Oasis trading was conducted through a single Oasis omnibus account, where the only responsible traders were Pang and Modi, when orders were placed on Canadian or Australian marketplaces.

4.2.5.b The act, practice, or course of conduct resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, a security

[107] To establish the second element of the test for market manipulation, a finding that conduct resulted in or contributed to either a misleading appearance of trading activity or an artificial price is sufficient. While conduct may result in both,[30] it is not necessary to establish both.[31]

[108] The *Act* does not contain any definition of "a misleading appearance of trading activity" or "an artificial price". However, we agree with the Commission's submission that conduct that creates a false impression about the price or value of, or level of interest in, a security is fundamentally incompatible with fair and efficient market operation.[32]

[109] The parties agree that a key question underlying allegations of manipulative trading is whether the trading activity reflects real demand or supply. We also agree with the Commission's submissions that:

a. when a trader enters an order that does not reflect real demand or supply for the subject security and instead signals to other market participants a heightened level of interest in buying or selling the subject security that does not actually exist, this is conduct that creates a misleading appearance of trading activity; and

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[30] *Kilimanjaro Capital Ltd (Re)*, 2021 ABASC 14 (***Kilimanjaro***) at para 161
[31] *Coastal Pacific Mining Corp (Re)*, 2016 ABASC 301 at para 48
[32] *Workum and Hennig (Re)*, 2008 ABASC 363 (***Workum and Hennig***) at para 1141

b. an artificial price is a price that does not reflect the true market demand or supply for a security, and can arise not only from executed transactions, but also from placing or amending orders.[33]

[110] The respondents submit that there are two reasons why the Commission must, to satisfy the second element of the test, establish that the initial order in each alleged instance of spoofing was a non-bona fide order.

[111] First, they submit that the Commission is bound to meet the case that it pleaded. The Commission's Statement of Allegations is unambiguous in pleading that an initial non-bona fide order (or "deceptive order") with no intention that it would be executed is an essential element of the alleged spoofing trading sequences. The Commission now concedes that it cannot establish that the initial orders in the subset of 61 instances of alleged spoofing were non-bona fide. We agree with the respondents that it would be unfair to permit the Commission to alter its case as it sought to do in its closing submissions in relation to the subset of 61 instances of alleged spoofing.

[112] Second, the respondents submit that there is no basis for a proposition the Commission advances in its submissions with respect to the subset of 61 instances of alleged spoofing. The Commission contends that even if an initial Oasis order was entered with a legitimate intent that it be executed, and even if that order was subsequently cancelled for a legitimate reason, the conduct reflected in the trading sequences still resulted in a misleading impression of interest in a security and a misleading appearance of trading activity because the initial order that was cancelled moved the quote and another Oasis Trader in another trading office secured a price improvement on the other side.

[113] We agree with the respondents and reject the Commission's contention on this point. We agree that where there is a legitimate intent to execute an order, the order reflects real supply or demand and a bona fide investment intent, even

[33] *Budzinski (Re),* 2023 ABASC 13 at paras 198-199, citing *Podorieszach (Re)*, 2004 CarswellAlta 2140 (ASC) (***Podorieszach***) at paras 85-89; *Workum and Hennig* at para 1205; *De Gouveia (Re)*, 2013 ABASC 106 (***De Gouveia***) at paras 92-93; CIRO "Annotated Universal Market Integrity Rules" (January 13, 2026), Rule 2.2, Manipulative and Deceptive Activities at p 64, online (pdf): https://www.ciro.ca/media/7526/download?inline

where the order is subsequently cancelled for legitimate reasons.[34] Thus we find that in order to establish the type of spoofing alleged here, the Commission must establish that the initial orders placed (and then subsequently cancelled without being filled) were non-bona fide orders. It is the entry of initial orders without any bona fide intention that they will be filled that creates a misleading appearance of market supply or demand (including the related market price) for a security.

[114] Thus, we proceed to consider whether the Commission has established, on a balance of probabilities, that the remaining 582 instances of alleged spoofing involved non-bona fide initial orders.

[115] As noted, the Commission's case is based on circumstantial evidence, from which it submits that we can conclude that in each of the remaining instances the Oasis Trader who placed the initial order did so without any bona fide intention that the order would be executed. The decision of the Alberta Securities Commission in *Podorieszach* states that intent or motive may be inferred from circumstantial evidence, as long as this evidence clearly and cogently supports an inference of improper intent.[35]

[116] The Commission submits that, for the 356 trading sequences (out of the remaining 582 instances) where the *same* Oasis Trader placed the initial order, executed trades on the other side of the market and then cancelled the initial order without execution, the only reasonable inference is that the trader did not intend to execute the initial order. The Commission alleges that there were 169 such instances on Canadian markets during the relevant time period and 187 such instances on Australian markets. Of the 169 instances on Canadian markets, 120 instances involved the same Oasis Trader, *ananxo11*, entering orders on both sides of the market, including multiple instances of orders for the same security, on the same day, and 6 instances involved Oasis Trader, *feiyao11*, repeatedly entering orders on both sides of the market for the same security on the same day.

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[34] *De Gouveia* at para 93; *Kilimanjaro* at para 156
[35] *Podorieszach* at paras 76-78

[117] The Commission submits that for the 221 trading sequences (out of the remaining 582 instances) where *different* Oasis Traders from the same trading office were involved on both sides, we should also draw the inference that the Oasis Trader who placed the initial order did not intend to execute it. The Commission submits that Oasis Traders from the same office were incentivized to increase each others' profits because this would increase collective compensation for the traders in that trading office. Oasis Traders working in the same office are not prohibited from communicating with each other and the number of such instances indicates that they were coordinated and intentional. The Commission alleges 9 such instances on Canadian markets, and 212 such instances on the Australian markets.

[118] After accounting for 356 trading sequences where the same trader was involved, and 221 trading sequences where different traders in the same office were involved, there are five Australian trading sequences remaining in the 582 instances. We find that these five Australian trading sequences involve different Oasis Traders from different trading offices on each side. For the same reason we decline to make a finding with respect to the 61 Canadian instances mentioned above, we similarly decline to find that the second element of the test has been satisfied with respect to these five instances. (For clarity, the five instances are AUS159, AUS160, AUS161, AUS328 and AUS 397.)

[119] The Commission also submits that the following evidence further justifies drawing the necessary inferences that the remaining instances of alleged spoofing involved non-bona fide orders:

a. most of the initial orders captured in the filters were cancelled within seconds;

b. Oasis Traders from the G24 trading office were involved on both sides in 396 of the total 404 instances of alleged spoofing on Australian markets;

c. there is a clear pattern of a small group of Oasis Traders from the G24 office engaging in repeated and apparently coordinated activity across the same securities over the same day or consecutive days, including 92 times in a specific security on December 18, 2018, involving trading by five G24 office traders; and

d. over 50 instances of alleged spoofing involved more than one non-bona fide order placed by an Oasis Trader on the same side, each at successively improved prices, all of which were subsequently cancelled after the trader executed a trade on the other side of the market at an improved price.

[120] Finally, in its cross-examination of Modi at the merits hearing, the Commission adduced evidence derived from trade supervision inquiries made through QQ chats. QQ is an instant messaging application popular in China. In one such inquiry involving the 046 office, Modi wrote "(a)ll orders MUST have the intention of being filled. IF the trader does not want it to be filled, then they must not place the order…this nonsense where we see a 1500+ bid order come in then get cancelled a few seconds later and see a small ask order filled is unacceptable".[36] The Commission submits that this communication, along with another example from the G18 office, demonstrates Modi's concern about the presence of manipulative trading, despite Modi's denial of such a concern in his testimony at the hearing.

[121] The respondents submit that the Commission fails to establish the second element of the test (misleading appearance or artificial price) because there is insufficient evidence about how the Australian markets operate.

[122] We do not agree that there was insufficient evidence as to how the Australian markets work. ASIC referred instances of LCMS on Australian markets to the Commission. The referral is strongly indicative that ASIC had concerns about spoofing. The Commission explained the meaning of locked and crossed markets, a phenomenon that can occur if there are only two exchanges upon which to trade. Generally, trading occurs similarly on all global exchanges. We did not need additional evidence to understand the mechanics of, and concerns about, spoofing in the Australian context.

[123] The respondents further submit that the Commission's evidence of manipulative trading is solely derived from the application of the filters designed by the Commission's investigator, which are wholly inadequate to conclusively identify

[36] Exhibit 1, Affidavit of Yu Chen affirmed April 8, 2025, Exhibit 132 (February 25, 2019 inquiry), Volume 3 at 389

and establish market manipulation. They argue that the Commission offered no evidence to justify the criteria used as the basis for the filters and that the Commission's approach disregards important contextual factors and potentially innocent explanations for order cancellation.

[124] The Commission's investigator is not an expert witness, and we do not rely on his testimony as an opinion about which trading sequences breach Ontario securities law. Instead, we take the trading sequences that were identified by the investigator and that are the subject of the Commission's allegations as the starting point. We then review and consider the features of those trading sequences, taken in their appropriate context, and make our own decision about whether the Commission has established that they involve non-bona fide initial orders.

[125] We agree with the approach taken in cases like *Podorieszach*[37] and *Thoroski*[38] that contextual factors are important in order to assess whether market manipulation took place. On the other hand, none of the cases cited specifically dealt with market manipulation in the context of day trading. The contextual factors relevant to the situation of day trading will be different and there is no exhaustive list.

[126] The respondents argue that much more contextual evidence than the evidence adduced by the Commission, especially about trading by other market participants, would be necessary to establish a misleading appearance of activity or artificial price. They note that cases such as *Sadeghi (Re)*[39] identify many more contextual factors in order to establish market manipulation and suggest that the absence of an adequate list of contextual factors demonstrates that the Commission has not met the legal tests that were established in those cases.

[127] In particular, the respondents point to the IIROC panel's analysis in *Sadeghi*, which identified nine aspects of the trader's order entry activity as relevant to an

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[37] *Podorieszach* at paras 76-78, 88-89 and 92-111

[38] *Thoroski* at paras 71, 73-77 and 101

[39] 2017 IIROC 55 (***Sadeghi***)

allegation of spoofing.[40] They submit that the Commission has not marshalled anything like this number of relevant factors in the present case.

[128] We distinguish *Sadeghi* which dealt solely with pre-opening placement of market orders where different trading rules may apply and factors such as liquidity and volatility are of heightened importance.

[129] We also do not interpret the *Sadeghi* decision as requiring that any particular number of relevant factors be present to establish market manipulation. We note that several key aspects of the list of factors referenced in the *Sadeghi* decision are present here, including a high rate of order cancellation, instances of rapid cancellation, and price changes triggered by orders entered and cancelled.[41]

[130] As a component of their submissions about context, the respondents submit that there are many innocent reasons to explain why an Oasis Trader may have cancelled an original order in the trading sequences identified by the Commission. The Commission also acknowledges this in their submissions. These include:

a. a change in market direction;

b. response to a newsflash;

c. volatility increasing price fluctuations and therefore cancellations; and

d. an Oasis Trader amending an order, approaching their buying power limit, or flattening positions at the end of the day, or a cancelled wash trade.

[131] We recognize that there are many potentially legitimate reasons for cancelling an order and that cancelling an order before it is filled, in and of itself, is not conclusive of that order not being a bona fide order. That said, the trading sequences that were identified by the Commission were not simply based upon the cancellation of an order. They all established a clear pattern where Oasis Traders were at the top of the book on both sides (or in the case of an order executed in a dark pool, within the spread), induced an improved price and

[40] *Sadeghi* at para 201
[41] *Sadeghi* at para 201

executed a trade on one side with that improved price, and cancelled the other side.

[132] Further, while the onus of proof is on the Commission to prove the elements of market manipulation, no attempt was actually made by the respondents to link any of the specific trading sequences at issue to one or more potentially innocent explanations or to explain why such innocent explanations could be plausible in the context of such trading sequences. The respondents made only a general assertion that such explanations could theoretically exist. This lack of detailed engagement with the trading evidence was unhelpful.

[133] Our own consideration of these potential innocent explanations suggests that few, if any, of them could even theoretically be plausible or applicable in the instances where the same trader is on both sides of the trading sequences (*i.e.*, for the 356 out of 582 instances). We also dismissed the few innocent explanations that theoretically could be plausible in the context where the same trader was on both sides of the trading sequences. For example, our review of the trading sequences indicates:

a. we found only two instances of cancelling initial buy orders in the last 10 minutes of the markets being open, and a review of the particular timing and trading activity in those cases was not consistent with the initial buy order being a bona fide order that was only cancelled because the traders wanted to flatten their positions at the end of the day; and

b. any orders that were suppressed or cancelled on the tape because they were wash trades were separately identified and included in the subset of 61 instances, and were not included in the 582 instances of alleged spoofing.

[134] Regarding the instances where different Oasis Traders in the same trading office were involved on both sides of the trading sequences, the fact that almost all of these instances (*i.e.* 212 out of 221) involved a small group of traders in the single G24 office overwhelms the possibility that the cancellations of initial orders in the sequences involving two traders in the G24 office were for potentially innocent reasons.

[135] Regarding the remaining nine instances where different Oasis Traders in the same trading office (but not the G24 office) were involved on both sides of the trading sequences (*i.e.*, nine out of 221), the Commission has not satisfied us that there are sufficient characteristics to establish that the initial orders were non-bona fide.

[136] Consequently, we find that the characteristics of 568 of the remaining 582 trading sequences, when considered together and with information about the identities of the particular Oasis Traders acting on each side of the market, are consistent with the type of spoofing that is alleged here.

[137] For all the above reasons, we are satisfied that the Commission introduced sufficient contextual factors to establish its case against Oasis. The circumstantial evidence is sufficiently compelling for us to find that the second element of the test has been established where the same Oasis Trader was acting on both sides of the market and also where Oasis Traders from the same G24 trading office were involved on each side. The sheer number of instances, the repeated patterns, the overwhelming involvement of a small group of traders in G24, as well as Modi's implicit recognition of improper trading activities in his contemporaneous QQ chats, outweigh the possibility of any benign explanations for the cancellation of initial orders in these 568 trading sequence instances.

4.2.5.c The respondents knew, or reasonably ought to have known that the act, practice or course of conduct would result in or contribute to a misleading appearance of trading activity or an artificial price for a security

[138] Having found that the Commission established the second element of the manipulative trading test, we next turn to consider the third element.

[139] The respondents submit that even if individual Oasis Traders entered initial orders without an intent to execute, the requisite intent cannot be transferred to Oasis, Pang or Modi. They further submit that there is no evidence to establish that the intent of an individual Oasis Trader engaged in spoofing is the intent of Oasis, its management or its compliance personnel. We disagree.

[140] The Commission submits, and we agree, that to find a breach of s. 126.1(1)(a) of the *Act* we do not need to find that the respondents or the Oasis Traders

actually intended to manipulate the market. We only need to find that the respondents "knew or ought to have known" that the behaviour would result in or contribute to a misleading appearance of trading activity or an artificial price. When considering the "knows or reasonably ought to have known" requirement in s.126.1(1) we adopt the "constructive knowledge" principle.[42] It does not require that a person involved in the scheme have subjective knowledge, but widens the effect of the provision such that another participant in the scheme may be found to have committed the misconduct if they ought to have known that the misconduct was occurring.[43]

[141] The trading activity all took place in Oasis accounts. Oasis Traders were trading on behalf of Oasis. The responsible traders on those accounts were Pang and Modi, who were ultimately responsible for all trades sent to the market.

[142] Oasis was an active market participant, choosing to use over 600 Oasis Traders for the purpose of proprietary trading. Pang was the CEO and used the title UDP. Modi was assigned responsibility for compliance. Given these roles and specific responsibilities, they ought to have known that Oasis Traders were engaging in trading activity that involved the entry of non-bona fide orders.

[143] It was reasonable to expect Pang and Modi to have heightened awareness of the possibility of manipulative activity in the period under review since it formed the basis of the 2015 Settlement Agreement.

[144] Further, there is evidence from QQ chats that Modi was aware that spoofing was taking place. His responses in the chats reference an attempt to prevent traders from engaging in such activity.

[145] We therefore find that the respondents knew or ought to have known that Oasis Traders were engaging in spoofing through the Oasis accounts. We therefore find that the respondents breached s. 126(1)(a) of the *Act*.

4.2.6 Wash trades

[146] The Commission alleges that between 2018 and 2020 Oasis executed 10,511 wash trades on Canadian markets that were not suppressed or cancelled from

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[42] *First Global Data Ltd (Re)*, 2022 ONCMT 25 at para 388

[43] *Natural Bee Works Apiaries Inc (Re),* 2019 ONSEC 23 at para 104

the public trading records. The public record, often called "the tape", is a chronological list of completed market trades. Wash trades are transactions where there is no genuine change in beneficial ownership—in this case they were trades where Oasis was both the buyer and the seller. Wash trades are generally suppressed from the public trading records, or cancelled after the fact, because they can cause a misleading appearance of trading activity since there is no change of ownership of the security and the trading volume is artificial. The artificial volume can create the impression of market interest in the security based on the order numbers and trading volume.[44]

[147] The wash trades identified by the Commission all occurred on two Aequitas NEO Exchange marketplaces (**Aequitas** or **Aequitas exchanges**). The Commission alleges that the respondents breached s. 126.1(1)(a) of the *Act* because these wash trades caused a misleading appearance of trading activity.

[148] The respondents do not dispute that Oasis executed 10,511 wash trades that were not suppressed or cancelled from the public trading records. We find that this occurred.

[149] Considering the elements of the offence of market manipulation, we are also satisfied that these wash trades (that were neither suppressed nor cancelled from the public record) meet the first two elements of the market manipulation test; namely, that the activity concerned a course of conduct related to securities and that it contributed to a misleading appearance of trading activity. However, we find that the Commission did not establish the requisite mental element of the test; namely, that the respondents knew or ought to have known that these wash trades were not being suppressed or cancelled, and therefore were resulting in a misleading appearance of trading activity.

[150] Instead, we find that the respondents were justified in their belief that JitneyTrade/Canaccord was ensuring that any wash trades were suppressed from the public record and, in the event they were not suppressed, they were cancelled from the public records. Our reasoning for this finding is set out below.

[44] *Kilimanjaro* at para 159

[151] The parties agree that, in the circumstances of this case, a wash trade occurs in two instances: (i) two different Oasis Traders are on opposite sides of the trade; or (ii) the same Oasis Trader is on both sides of the trade (a self-trade). In both instances, Oasis itself is on both sides of the trade.

[152] To supress a wash trade automatically so that it does not appear on the public record, certain coding is entered with the order information using what are called “FIX tags”. If specified FIX tags match on both sides of the trade, suppression of the wash trade occurs automatically.

[153] Where a wash trade is not automatically suppressed from the public record, the executing broker (in this case, JitneyTrade/Canaccord) should identify it and must contact the exchange and request cancellation of the trade before the daily trade file of the exchange is sent for clearing.

[154] If the request to cancel the wash trade is not made by the executing broker before the daily trade file of the exchange is sent for clearing, the wash trade can no longer be cancelled. The executing broker (in this case, JitneyTrade/Canaccord) must then send a gatekeeper report to CIRO notifying it about the wash trade that has neither been suppressed nor cancelled.

[155] Wash trades were more likely in Oasis’s circumstances because of the volume of Oasis’s trading and due to broker preferencing. Broker preferencing gives a preference for trade execution to orders in the marketplace that are at the same price and come from the same broker.

[156] In a May 2016 email exchange, JitneyTrade/Canaccord’s internal expert on FIX tags instructed Oasis to enter specific values in the FIX tags to ensure that the self-trade prevention FIX tag would function to automatically suppress any wash trades on the Aequitas exchanges. Oasis followed the JitneyTrade/Canaccord instructions. In the email exchange, Modi expressed doubt to JitneyTrade/Canaccord about the correctness of the FIX tag information provided to Oasis for implementation but there is no evidence that he received a response. The evidence is clear that Oasis relied on JitneyTrade/Canaccord’s instructions.

[157] The values provided by JitneyTrade/Canaccord to Oasis and entered by Oasis in the FIX tags for the Aequitas exchanges were, in fact, incorrect. Therefore, the

Oasis wash trades on these exchanges were not automatically suppressed. JitneyTrade/Canaccord only learned in late December 2020 that the FIX tags were not properly configured to automatically suppress these wash trades from the public record. Oasis also only learned this information from JitneyTrade/Canaccord in late December 2020. The issue with the FIX tags was corrected because of a suggestion from Modi.

[158] JitneyTrade/Canaccord had another control in place to protect against wash trades appearing on the public record. JitneyTrade/Canaccord relied on its internal compliance tool, Sniper, to generate alerts for many compliance monitoring activities. If the Sniper alert system functioned correctly, JitneyTrade/Canaccord would be notified by an alert about a wash trade that was not automatically suppressed on the marketplace. As a result, JitneyTrade/ Canaccord would send an email to the relevant exchange requesting cancellation of the wash trade so that it would not appear on the public record.

[159] In late December 2020 JitneyTrade/Canaccord learned that its Sniper system was not working properly and was not flagging wash trade transactions that were not automatically suppressed on the Aequitas exchanges. This meant that JitneyTrade/Canaccord was not alerted to unsuppressed wash trades in order that it could step in and advise the Aequitas exchanges of the need to cancel them. This issue was corrected by February 2021. The issue affected not only Oasis, but other JitneyTrade/Canaccord clients. Oasis was not previously aware of this issue with the Sniper system.

[160] To establish the mental element of the offence in this case, the Commission needs to establish that the respondents knew or ought to have known that any Oasis wash trade activity was not automatically suppressed on the public record through the use of FIX tags and, failing that, was also not being further monitored and cancelled by the executing broker, JitneyTrade/Canaccord. The Commission does not allege that the respondents had actual knowledge of these issues. It alleges only that the respondents ought to have known.

[161] The Commission relies on the following to establish the requisite mental element:

a. four email exchanges between 2017 and 2019 involving Modi which it characterizes as communications that suggested the self-trade prevention FIX tag was not functioning properly or was improperly configured; and

b. the assertion that had Oasis reviewed random wash trade alerts generated by its own internal analysis workbooks, it would have learned that its wash trades were not being properly suppressed or cancelled.

[162] We consider the Commission's arguments below, beginning first with a description of the four email exchanges.

[163] The first email exchange occurred in November 2017. Modi emailed JitneyTrade/Canaccord about wash trades appearing on Aequitas exchanges. JitneyTrade/Canaccord informed Modi that it was not receiving FIX tags for Aequitas. No evidence was adduced about what, if any, action was taken.

[164] The second exchange occurred in May 2018 when JitneyTrade/Canaccord emailed Modi about a high volume of wash trades that morning. Modi, who was on vacation at the time, speculated that the wash trades could be due to increased activity and broker preferencing and reminded JitneyTrade/Canaccord that Oasis had implemented the FIX tags as instructed. JitneyTrade/Canaccord replied that it was satisfied with the response and it did not request that any further action be taken.

[165] In the third exchange in November 2018, JitneyTrade/Canaccord asked Oasis about 15 wash trades in a particular security raised by IIROC (now, CIRO) in an audit. Modi confirmed to JitneyTrade/Canaccord that Oasis was using the FIX tags as originally instructed and provided to JitneyTrade/Canaccord a file showing the relevant FIX tags for various trades.

[166] The fourth exchange was in December 2019 when Modi wrote to one of the Aequitas exchanges about a single wash trade he identified that had printed on the tape. He was told the relevant FIX tags did not match. Modi stated that he would contact JitneyTrade/Canaccord to sort it out. We have no evidence about whether there were further communications about the issue.

[167] The Commission alleges that these four emails occurring over a period of two years ought to have alerted Modi and Oasis that the FIX tags were improperly

configured to automatically suppress wash trades on the Aequitas exchanges. We disagree. While Modi may have had some concerns about wash trades, we find that he and Oasis relied on:

a. the instructions of JitneyTrade/Canaccord to populate the FIX tags intended to automatically suppress any wash trades; and

b. later on, JitneyTrade/Canaccord's silence or its assurances that there were no issues with the wash trades.

[168] Even if Modi and Oasis ought to have known by December 2019 that there was an issue with the FIX tags, they would have had little or no reason to know that the unsuppressed wash trades on the Aequitas exchanges were also not being flagged by JitneyTrade/Canaccord's Sniper compliance monitoring system and that JitneyTrade/Canaccord was failing to arrange for them to be cancelled by the exchanges.

[169] The Commission further alleges that had Oasis reviewed random wash trade alerts generated by its own analysis workbooks, it would have learned that its wash trades were not being properly suppressed or cancelled. It alleges that Oasis conducted wash trade supervision inquiries only where the same trader was involved on both sides of the transaction.

[170] As the executing broker, Jitney Trade/Canaccord was subject to UMIR and was responsible for ensuring that wash trades were suppressed. It was JitneyTrade/Canaccord who had the unique interface with the exchanges and their Sniper system was therefore designed to generate alerts for wash trades. JitneyTrade/Canaccord was also responsible for alerting the exchanges to cancel those wash trades that were not automatically suppressed. Further, JitneyTrade/Canaccord was responsible for submitting reports to IIROC (now, CIRO) if a wash trade was ultimately on the public record.

[171] Oasis therefore focused its supervision activities on Oasis Traders who were potentially engaged in self-trading (that is, trading with themselves). This type of trade supervision was conducted from Spire. JitneyTrade/Canaccord would be unable to monitor for this type of wash trading because it lacked the requisite trader IDs. Modi explained that on a next-day basis head office employees would look at the wash trade tab in their analysis workbooks and if a self-trade was

identified, inquiries were made to the TGM of the office of the trader. Modi explained that Oasis wanted to maintain a level of mindfulness among the traders so that traders were aware of any self-trades and they maintained proper behavior. Oasis would look at whether the self-trade was self-reported, how active the trader was, market volatility, the number of instances of self-trades, the frequency of instances of self-trades, and the time between instances. Oasis and Modi concluded that self-trades were generally unintentional and may have occurred due to carelessness.

[172] We find that as related to trade supervision concerning wash trades, the responsibility for ensuring that such trades were suppressed and cancelled resided with JitneyTrade/Canaccord. As the executing broker, JitneyTrade/ Canaccord instructed their clients, including Oasis, about coding FIX tags. Oasis reasonably relied on those instructions. We disagree with the Commission that Oasis ought to have reviewed its internal workbooks in order to backstop the work that JitneyTrade/Canaccord was required to do with its Sniper alert system. We therefore do not find that the respondents breached s. 126.1(1)(a) of the *Act* in relation to the 10,511 wash trades on the Aequitas exchanges that were neither suppressed nor cancelled.

4.3 Obligation to establish and maintain adequate systems of control and supervision

4.3.1 Introduction

[173] The Commission alleges that Oasis failed to establish and maintain adequate systems of control and supervision contrary to s. 32(2) of the *Act.*

[174] We first consider whether s. 32(2) of the *Act* applies to Oasis. We find that it does not and then continue to consider the Commission's allegation in the alternative that we should find that Oasis, as well as Pang and Modi, engaged in conduct contrary to the public interest by failing to establish and maintain adequate systems of control and supervision.

4.3.2 Oasis did not breach section 32(2) of the *Act*

[175] Subsection 32(2) of the *Act* requires that every registrant that is a registered dealer, registered advisor or registered investment fund manager establish and

maintain systems of control and supervision in accordance with the regulations for controlling its activities and supervising its representatives.

[176] Oasis is not a registrant, and we have found that Oasis is not required to register. Therefore, s. 32(2) does not apply to Oasis.

[177] We therefore turn to consider the Commission's alternative allegation that the respondents engaged in conduct contrary to the public interest by failing to establish and maintain adequate systems of control and supervision. We note that although the Commission alleges that only Oasis breached s. 32(2) of the *Act*, its alternative allegation of conduct contrary to the public interest is made against Oasis as well as against the individual respondents, Modi and Pang.

[178] Below we find that Oasis engaged in conduct contrary to the public interest by failing to establish and maintain adequate systems of control and supervision. However, we decline to make a similar finding against Pang and Modi. While Pang and Modi are the only directors and officers of Oasis, we did not hear submissions on the appropriateness of allocating responsibility for inadequate compliance to the individual respondents in addition to Oasis.

4.3.3 Oasis engaged in conduct contrary to the public interest, warranting an order pursuant to our s. 127(1) public interest jurisdiction

4.3.3.a The application of *Riot Platforms, Inc.* to public interest orders and the parties' positions

[179] Section 127(1) of the *Act* empowers the Tribunal to make a wide range of orders in the public interest.

[180] The "public interest" test under s. 127(1) has two features that apply across all proceedings:

a. the Tribunal need not find a contravention of Ontario securities law to make most types of orders under s. 127(1); and

b. in giving content to "the public interest", the Tribunal must refer to the relevant "animating principles", which include the purposes of the *Act*,[45]

[45] *Act,* s 1.1

the principles that should apply in carrying out those purposes,[46] and other fundamental principles underlying the provisions of Ontario securities law, relevant to the proceeding.[47]

[181] Even though the Tribunal made clear as far back as 1978, in *Cablecasting Inc (Re)*,[48] that it may make an order in the public interest without there being a contravention of Ontario securities law, such instances have been described as, and seen as, exceptions.[49]

[182] In *Riot Platforms, Inc v Bitfarms Ltd (**Riot**)*, the Tribunal reviewed prior cases where an order was made under s. 127(1) in circumstances where there was no allegation or finding of a contravention of Ontario securities law. *Riot* then synthesized and refined the test for making a s. 127(1) order where there is no contravention. It did so specifically in the context of a proceeding brought by an aggrieved party complaining about a shareholder rights plan (**SRP**), rather than in an enforcement proceeding brought by the Commission.

[183] The Tribunal determined that, to make a public interest order in circumstances where there is no contravention of Ontario securities law, it must apply the following test and find that the SRP (or the "plan"):

a. undermined, in a real and substantial way, one or more clearly discernible animating principles underlying applicable provisions of Ontario securities law; and

b. caused an effect that had a public dimension, such that it was in the public interest for the Tribunal to intervene.[50]

[184] In *Riot*, the Tribunal was clear that context matters when determining "public interest". The Tribunal's analysis in *Riot* focussed on the sub-category of cases before it, namely SRPs not alleged to contravene securities law. The Tribunal

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46 *Act,* s 2.1
47 *Riot Platforms, Inc v Bitfarms Ltd,* 2024 ONCMT 27 (***Riot***) at para 18
48 (1978) OSCB 37
49 *Riot* at para 25
50 *Riot* at para 68

stated that it would be for future panels to decide whether, and, if so, to what extent, to incorporate the analysis in *Riot* to other kinds of proceedings.[51]

[185] The Commission submits that the test from *Riot* should be applied here. It submits that if we substitute Oasis's "conduct" (*i.e.*, the failure to establish and maintain adequate systems) for "plan", the test enunciated in *Riot* is adaptable to the facts of this case and warrants a finding that the respondents acted contrary to the public interest.

[186] The Commission submits that Oasis's failure to establish and maintain adequate systems of control and supervision undermined in a real and substantial way the animating principles of the *Act*. The Commission submits that Oasis's failure undermined the *Act*'s goals of restricting fraudulent and unfair market practices and maintaining high standards of fitness and business conduct to ensure honest and responsible conduct by market participants. The Commission also submits that, for the following reasons, Oasis lacked adequate systems to control the trading activities of the Oasis Traders:

a. Oasis failed to establish and maintain adequate trade supervision; and

b. Oasis failed to maintain a culture of compliance at all levels of operation.

[187] The respondents submit that, while the Tribunal in *Riot* recognized the need for flexibility in applying the public interest test, the Tribunal also emphasized the need for caution and the importance of certainty and predictability,[52] something which is potentially undermined where the s. 127(1) jurisdiction is exercised in the absence of an Ontario securities law contravention.

[188] The respondents also submit that there is no basis that substantiates a s. 127 order, in the absence of a contravention of Ontario securities law, for an alleged failure to establish and maintain adequate systems of control and supervision, because:

a. when stripped of allegations of market manipulation (which the respondents say are not appropriate to establish inadequate systems), the Commission's allegations of inadequate systems amount to unjustified

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[51] *Riot* at para 19
[52] *Riot* at para 28

criticisms, unmoored from any identifiable legal standard against which Oasis's conduct is to be judged;

b. Oasis's compliance system was designed by an independent compliance monitor who was approved by the Commission as a term of the 2015 Settlement Agreement;

c. JitneyTrade/Canaccord, as gatekeeper to the marketplace and one of Canada's largest and most sophisticated registered dealers, supervised and monitored Oasis's trading activity, including for various forms of market manipulation, as it was required to do under UMIR;

d. Oasis's compliance system was designed to complement, and not replace or duplicate, JitneyTrade/Canaccord's supervision system; and

e. contrary to the Commission's allegation, Oasis did have a positive culture of compliance, as reflected in its cooperation with JitneyTrade/Canaccord and its openness to, and facilitation of, the compliance monitor's work.

[189] We note that the respondents do not submit that Oasis is exempt from any requirement to have a compliance program. They acknowledge that one is required. They rely on the compliance monitor's evidence that, as there are no specific prescriptive rules or regulations regarding what a DEA client's compliance program must look like, a principled approach is that the systems should be appropriate for the size and complexity of the business.

[190] The Commission did not refer us to any cases where the Tribunal has previously made an order in the public interest for a failure to establish and maintain adequate systems of supervision and control, in circumstances where there is no accompanying contravention of Ontario securities law. The Commission did cite *Rowan (Re)*[53] which dealt with the adequacy of compliance and supervision in the context of the insider reporting obligations of registrants. However, we note that in that case the Tribunal first found that the respondents breached an applicable rule and regulation relating to adequate trading supervision, before finding that

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[53] 2008 ONSEC 12 (***Rowan***)

the failure to adequately supervise trading was also conduct contrary to the public interest.[54]

[191] We did not receive detailed submissions from either the Commission or the respondents on the question of whether, and if so to what extent, the approach in *Riot* is appropriate in the context of this and other enforcement proceedings. The Commission simply submits that we should apply the approach in *Riot* that is set out above. The respondents did not object or submit that we should apply a different approach. We have therefore decided that applying the approach in *Riot* in this case is appropriate.

4.3.3.b Legal standard and the role of JitneyTrade/Canaccord as primary gatekeeper

[192] The first issue we must consider is the respondents' submission that there is no legal standard against which to assess whether Oasis's systems of control and supervision were adequate. While we agree with the respondents that there are no specific prescriptive rules or regulations regarding what a DEA client's compliance program must look like, we reject the respondents' submission that this means that there is no basis to judge the adequacy of Oasis's systems.

[193] A second interrelated issue we must consider is the respondents' submission that JitneyTrade/Canaccord's role as a participant dealer and its related obligations relieve Oasis of responsibility for an adequate compliance system. We also reject this submission for reasons detailed below.

[194] NI 23-103 informs our rejection of these submissions.

[195] While participant dealers such as JitneyTrade/Canaccord act as the primary gatekeepers to the marketplace in DEA trading, NI 23-103 clearly recognizes that DEA clients, such as Oasis, have an important role to play in the control and supervision of trading.

[196] Participant dealers, such as JitneyTrade/Canaccord, have specific obligations under NI 23-103 to establish, maintain and ensure compliance with risk management and supervisory controls, including through automated pre-trade

[54] *Rowan* at paras 35(h), 310-353, and 354(h) and (i)

controls and regular post-trade monitoring.[55] However, as a condition to the participant dealer providing DEA to clients, those DEA clients, such as Oasis, must also meet certain standards established by the participant dealer as set out in s. 4.3 of NI 23-103. Those standards include having "a reasonable knowledge of, and the ability to comply with, all applicable marketplace and regulatory requirements", and having "reasonable arrangements in place to monitor the entry of orders through DEA".

[197] Further, s. 4.4 of NI 23-103 requires a participant dealer (*e.g.*, JitneyTrade/ Canaccord) to enter into a written agreement with its DEA client (*e.g.*, Oasis) that imposes further obligations on the DEA client, including that: (i) the DEA client's trading activity will comply with marketplace and regulatory requirements, and (ii) the DEA client will inform the participant dealer if the client fails or expects not to meet the standards set by the participant dealer. We also note that Oasis undertook to maintain adequate compliance arrangements in the 2015 Settlement Agreement.

[198] While the provisions of NI 23-103 are not specific or prescriptive, they do contemplate clear standards to be met by the DEA client. These standards refer to having "reasonable knowledge", "a reasonable ability to comply" and "reasonable arrangements in place to monitor".

[199] "Reasonableness" is a standard against which Oasis's systems can be assessed. What is "reasonable" for a DEA client will depend on all of the relevant circumstances, including, but not limited to, the size and complexity of the DEA client's business.

[200] There is nothing in NI 23-103 that excuses or relieves a DEA client from taking appropriate responsibility for supervision and control of its proprietary trading simply because the participant dealer has related or similar obligations. Both the participant dealer and the DEA client have responsibilities, which may be joint or overlapping in certain circumstances. Because of this, we also reject the respondents' submission that because Oasis's systems were intended to be

[55] NI 23-103, Part 2 Requirements Applicable to Marketplace Participants, ss 3(1) and (2)

complementary to, and not duplicative of, JitneyTrade/Canaccord's systems, Oasis cannot be faulted for its own systems, if they are found to be inadequate.

[201] This general finding about joint or overlapping responsibilities of the participant dealer and the DEA client for supervision and control is not inconsistent with our more specific finding, above, that it was appropriate for Oasis to look to JitneyTrade/Canaccord to ensure that wash trades were automatically suppressed and, if they were not automatically suppressed, to ensure that the exchanges were advised to cancel them. That finding was based upon JitneyTrade/Canaccord's responsibility for the unique technological interface with the exchanges and specific responsibility assigned to the participant dealer under UMIR.

[202] We find that the relevant circumstances that we must consider in assessing the reasonableness and adequacy of Oasis's systems include the nature of Oasis's business model. Oasis provides a gateway for over 600 active traders to interact with the capital markets. This business model is a disaggregated one where Oasis Traders are widely dispersed geographically, have no direct relationship with Oasis (except through the TGMs), and operate in a high-pressure trading environment where they interact constantly with the market.

[203] We find that Oasis must implement and maintain reasonably effective systems of control and supervision over the Oasis Traders, having regard to its business model. Oasis's systems must be fit for purpose, having regard to these circumstances.

[204] We also find that the regulatory history of Oasis puts it in a higher risk category for potential market manipulation. This fact informs what is reasonable for monitoring purposes – *i.e.*, that greater supervision of trading is warranted.

[205] It is in this context that we assess the adequacy of Oasis's systems below. We recognize that this may be the first time that the Tribunal has considered the adequacy of a compliance system for this business model. We draw on the Tribunal's expertise in interpreting regulatory principles and what is reasonable in the circumstances.

4.3.3.c The Oasis compliance system is not presumptively adequate because it was designed by an independent compliance monitor

[206] Before we turn to our consideration of the adequacy of Oasis's systems, we first consider the respondents' submission that we cannot find Oasis's compliance systems to be inadequate because:

a. the systems were designed and implemented by an experienced independent compliance monitor, who was approved by the Commission as a part of the 2015 Settlement Agreement;

b. the compliance monitor's reports on the systems were provided to the Commission, which did not respond or object to anything in the reports; and

c. the compliance monitor's 2017 audit report of the Oasis compliance program recommending no material changes was provided to the Commission, which did not respond or object.

[207] We do not agree that these facts preclude a finding that Oasis's systems were inadequate.

[208] The fact that the Commission did not respond or object to the compliance monitor's reports is not tantamount to either advice from, or approval by, the Commission. It does not bind the Commission, nor does it provide a defence to the Commission's allegation of inadequate systems.[56] It is also not evidence of the adequacy of the Oasis systems.

[209] We accept that as part of the 2015 Settlement Agreement, Oasis redesigned its compliance structure with the assistance of an independent compliance monitor who was approved by the Commission.

[210] While we do not question the credentials and abilities of the compliance monitor, we find that Oasis's retainer of the compliance monitor to design and implement the Oasis systems is not conclusive of the systems' adequacy. We also note that

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[56] *North American Financial Group v Ontario Securities Commission*, 2018 ONSC 136 (Div Ct) at para 166

designing and establishing a compliance program and diligently executing that program are two different things.

4.3.3.d Oasis failed to establish and maintain an adequate trade supervision system

[211] We find, for the following reasons, that Oasis failed to establish and maintain an adequate trade supervision system.

[212] First, contrary to the respondents' submission, two facts confirm for us that Oasis failed to establish and maintain adequate systems of internal controls and supervision over trading activity:

a. that Oasis engaged in market manipulation by repeated spoofing practices across multiple trading offices; and,

b. that Oasis knew or ought to have known that market manipulation was occurring.

[213] Second, although Oasis purported to organize both its compliance and trade supervision system into three lines of defence, the first of which was at the level of the Oasis TGMs, the TGMs did not report to the Oasis head office about their trade supervision activity, and the Oasis head office did not know what steps, if any, any TGM took with respect to trade supervision. Oasis's delegation of trade supervision to the TGMs and lack of any visibility about the TGMs' trade supervision systems, if any, is concerning.

[214] Third, Oasis's trade supervision conducted at the head office level (the so-called second line of defence), was inadequate for several reasons.

[215] Oasis's trade supervision relied upon hard-coded tools to prevent certain types of trades, restricted trading lists to prevent trading in certain illiquid securities, and buying power and loss limits for each Oasis Trader. Otherwise, Oasis looked to risk management tools to conduct some real time and post-trade reviews.

[216] Other than some technical and other minor support provided by a few individuals in the Oasis head office, Modi was the only person in the Oasis head office responsible for trade supervision, including reviewing potentially manipulative trades. We find that it is not objectively reasonable for one person to monitor and effectively follow up on the high-volume trading of more than 600 traders

who placed many hundreds of thousands of trades per month on Canadian and Australian markets combined, particularly when there is a language barrier (as there was between Modi and the Oasis Traders). One symptom of this was provided in Mr. Modi's evidence where he admitted that he did not know how to "interpret emoji's [used in QQ responses] from a different culture".[57]

[217] Oasis's internal supervision guide required it to review a sample of real-time order and trade records for evidence of unacceptable trading practices. While the guide did not prescribe any percentage or minimum number of sample trades required to be reviewed and Modi testified that such real-time trade supervision did occur, the tool that was used for this supervision did not include any recordkeeping function documenting the fact, extent or resolution of such review. Oasis's recordkeeping of review and resolution of supervision issues both in real time and in post-trade supervision was demonstrably lacking.

[218] The evidence established that Oasis's system to engage in some post-trade supervision was also inadequate and was not adequately providing "independent verification"[58] of law-abiding behaviour on the part of the Oasis Traders.

[219] Oasis used the JitneyTrade/Canaccord Sniper portal for its post-trade reviews of trades in the Canadian marketplaces. Although Sniper generated over 1.2 million unique alerts regarding Oasis's trading activity across various categories between 2018 and 2020, Oasis (*i.e.*, Modi) reviewed only one category of alerts identified as "Algo Manipulation". Of the almost 59,000 alerts in this category over the relevant timeframe, JitneyTrade/Canaccord's records show that Modi reviewed or commented on fewer than 1,500 and categorized all but one of these as "nothing to report". For five months in the relevant timeframe, Modi also did not review any Sniper alerts. We find this level of review to be inadequate in the circumstances. Further, Oasis did not analyze the Sniper alerts for trading patterns, nor did it keep records of the alerts that were reviewed. Although we accept Oasis's evidence that JitneyTrade/Canaccord made access to the Sniper alerts optional and did not require Oasis to access and review the Sniper alerts, we find that because Oasis chose to base its post-trade supervision

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[57] Hearing Transcript, October 17, 2025 at p 40 lines 11-12

[58] *Rowan* at para 340

on a review of these alerts (as opposed to some other system of review), the optional nature of the access is not relevant to our consideration of the adequacy of Oasis's post-trade supervision.

[220] Oasis did not conduct any post-trade reviews of trades in the Australian marketplaces in 2018. All instances of Australian spoofing occurred in 2018.

[221] We also heard evidence involving the use of analysis workbooks that Oasis generated internally. These workbooks identified transaction or order entries that were flagged based upon Oasis's own internal criteria, including transactions that might indicate market manipulation. Oasis did not review the vast majority of the transactions identified in these workbooks and Modi testified that Oasis's post-trade reviews of trades did not include any review of these workbooks. Instead, Oasis used the workbooks for very limited purposes.

[222] The respondents submit that the workbooks were not part of the compliance program designed by the compliance monitor, and the fact that they were not reviewed as a part of Oasis's trade supervision should not be used to establish that Oasis's trade supervision system was inadequate.

[223] The Commission's investigator testified that of the 239 instances of alleged spoofing in Canadian markets that he identified, only 38 of these were flagged by the workbooks. The Commission submits that Oasis should be faulted for failing to review instances of possible manipulation that its own internal criteria identified as warranting a review. Having already found that Oasis's chosen method of post-trade supervision (based on the Sniper alerts) was inadequate, we do not conclude that Oasis was required to also review the workbooks. However, Oasis's failure to do so is consistent with a concerning lack of diligence in Oasis's approach to compliance.

[224] Further, we find that the hard-coded tools implemented in Oasis's Spire system were improperly coded. Not all potential incidents of spoofing were being prevented, as intended. Specifically, the 30-second prevention tool only operated successfully in one order direction. The first test, entered in Spire correctly, is that if an order in a security is executed, a trader is prevented from cancelling a buy order in the same security for 30 seconds. The equivalent but opposite prevention tool would require that if a sell order is cancelled, a trader is

prevented from *executing* a buy order in the same security for 30 seconds. The tool was designed erroneously so that the test in Spire was that if a sell order were cancelled, a trader would be prevented from *entering* a buy order for 30 seconds. This means that any pre-existing buy orders would not be prevented from being executed. Any resting buy order in the same security would be filled.

4.3.3.e Oasis failed to maintain an adequate culture of compliance

[225] We accept the respondents' submissions and the testimony of JitneyTrade/Canaccord's Chief Compliance Officer that Oasis was a cooperative client of the firm and was timely with follow-up on any compliance-related issues it raised. We also accept the respondents' submissions and evidence that Oasis was open to, and facilitated, the compliance monitor's work. Despite this, we find that Oasis failed to maintain an adequate culture of compliance. Our reasons are set out below.

[226] The Oasis Compliance Manual required that TGMs:

a. implement and review their own written compliance policies and procedures;

b. monitor the trading activities of Oasis Traders;

c. provide training to Oasis Traders;

d. report to the Oasis head office all compliance issues or exceptions; and

e. maintain records sufficient to demonstrate that compliance was maintained.

[227] Despite this, we saw no evidence of written policies and procedures at the TGM trading office level, the TGMs did not report to the Oasis head office about their trade supervision activity or compliance issues or exceptions, and we saw no evidence as to how records were maintained at the TGM trading office level. Oasis had no visibility, nor any real oversight over, any actual compliance programs at the trading office level. Even if Oasis sought to download oversight to the TGMs, it failed to enforce those obligations provided for in the Compliance Manual.

[228] We saw evidence of TGMs not taking their supervisory duties seriously and minimizing issues raised by head office, which raise red flags about the TGMs' commitment to compliance. The use of emojis in QQ chats and the general tone of the chats suggested that TGMs and traders did not take compliance seriously. We saw no evidence that Oasis reacted to or addressed this issue. Even when OpenMarkets alerted Oasis to concerns about trading patterns in the G24 office, Modi appears to have accepted at face value, without engaging in any independent verification, the TGM's assertion that the trading was bona fide.

[229] We note that the compliance monitor, in opining on the adequacy of the compliance program, referred to Oasis as a small firm in the 2017 audit report. It is inconsistent to consider Oasis "small" because the TGMs are independent and manage their own businesses, yet refer to the TGMs as the first line of defence in the execution of the compliance program. We also cannot ignore that since the 2017 audit report the number of traders increased from 200 to over 600.

[230] Although Oasis provided training to TGMs, only minimal training was provided to Oasis Traders through the requirement that the TGMs provide certain onboarding documents to Oasis Traders, and through brief "ad hoc" training messages conveyed by Oasis via QQ chats.

[231] We find that this training was inadequate and reject the respondents' submission that the training was properly tailored to its business and its role as a DEA client. Training material included:

a. the Oasis Market Compliance Form (which contained a Chinese translation of UMIR and the Oasis Code of Ethics);

b. the Spire trading manual; and

c. a slide deck training manual.

[232] Oasis did not prescribe a method for the TGMs to deliver the onboarding documents and did not require any confirmation from the Oasis Traders that they had received and read the training materials. Instead, Oasis required the TGMs to attest only that the materials had been provided to the newly onboarded Oasis Traders. This check-the-box attestation was not sufficient to

ensure that training materials were actually received, read and understood by the Oasis Traders and that compliance procedures were taken seriously by the Oasis Traders.

[233] Further, the 18 relatively brief ad hoc QQ chats that were sent by Oasis during the 3-year period between 2018 to 2020 did not constitute robust training or oversight, given the complexity of the market environment in which the Oasis Traders were trading. Although Pang testified that the TGMs might provide additional onboarding and ongoing training to their respective traders at their discretion, Oasis had no visibility into whether this ever actually happened and Oasis had no records of any additional training.

[234] We acknowledge that disciplinary action was taken on occasion where trader compliance was absent. In the vast majority of instances, Oasis Traders would receive nothing more than a warning. However, we note that one Oasis Trader was terminated and some QQ chats demonstrate that multi-day suspensions of individual traders either occurred or were threatened.

[235] We find that Modi's testimony regarding discipline was vague and at times evasive. While we agree that undertaking disciplinary action depends on the situation and may require business judgment, objectively there should be consistent monitoring and application of regulatory and firm-imposed rules. We find Modi's testimony that TGMs are not expected to report to Oasis their own disciplinary measures to be inconsistent with the Oasis Compliance Manual. Further, when faced with emails where traders were clearly being warned about misconduct, Modi expressed that he had no concerns. Given the sparse examples of discipline and supervisory recordkeeping, and the fact that no additional controls were ever deemed necessary, we conclude that the disciplinary measures were lacking.

[236] We also find that while Oasis undertook to engage in regular audits of its compliance system, no audits took place after December 2017 until 2021. We acknowledge the respondents' submissions that annual audits resumed in 2022.

4.3.3.f Oasis's failures amounted to conduct contrary to the public interest

[237] Having found that Oasis failed to establish and maintain an adequate trade supervision system and an adequate culture of compliance, we turn next to apply the approach in *Riot.* First, we consider whether Oasis's conduct (*i.e.*, these failures) undermined, in a real and substantial way, the animating principles of the *Act*. We then consider whether Oasis's conduct had a public effect, such that it is in the public interest for the Tribunal to intervene.

[238] Our analysis of the relevant animating principles begins from the proposition that as a market participant, Oasis owed a duty to the public and the markets grounded in:

a. the purposes of the *Act*;

b. the principles set out in s. 2.1 of the *Act*; and

c. the contractual obligations of DEA clients recognized in NI 23-103*.*

[239] Section 1.1 of the *Act* establishes that the purposes of the *Act* include providing protection to investors from unfair, improper or fraudulent practices and fostering fair, efficient and competitive capital markets as well as confidence in those markets. Further, s. 2.1 states that the primary means for achieving the purposes of the *Act* include:

> i. …
>
> ii. restrictions on fraudulent and unfair market practices and procedures, and
>
> iii. requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

[240] Oasis is a market participant that engages in a high volume of trading activity on Canadian and Australian markets. We find that Oasis failed to establish and maintain adequate systems of control and supervision. These systems should have operated to restrict improper trading practices and ensure honest and responsible conduct by its more than 600 traders. Oasis's failure undermined, in a real and substantial way, a core animating principle of Ontario securities law

regarding the maintenance of fair capital markets in which trading is conducted with integrity and in which all market participants can have confidence.

[241] We find in this case that Oasis's inadequate approach to supervision and compliance exposed other investors to a heightened risk of improper trading practices and irresponsible conduct by Oasis Traders, and thus had a public effect, warranting intervention by the Tribunal. We heard that in some time periods Oasis's trading constituted close to one percent of all trades on certain marketplaces. In our view, these circumstances are sufficient to establish the second element of the approach in *Riot.*

[242] Accordingly, we find that Oasis engaged in conduct contrary to the public interest.

4.4 Oasis provided DEA to unauthorized persons

[243] The Commission alleges that Oasis provided DEA to unauthorized persons, contrary to s. 4.7(4) of NI 23-103.

[244] NI 23-103 addresses how to control risks brought about by electronic trading and DEA. Marketplace participants, which include participant dealers such as JitneyTrade/Canaccord in this case, are primarily responsible for ensuring that these risks are reasonably controlled and monitored.

[245] As a participant dealer, JitneyTrade/Canaccord is responsible for ensuring that its DEA clients, including Oasis, meet certain standards designed to manage the participant dealer's risks associated with providing DEA.

[246] NI 23-103 requires the participant dealer to ensure that the prospective DEA client has and continues to have sufficient resources, appropriate knowledge, the ability to comply with regulatory requirements and monitoring capabilities. It also requires that participant dealers enter into a written agreement with each of their DEA clients.

[247] The obligation to enter into a written agreement is found at s. 4.4 of NI 23-103. Section 4.4 mandates various terms that must be included in the written agreement, including a list of responsibilities and obligations that the written agreement must assign to the DEA client. Section 4.4(a)(vii) states that the

written agreement shall require the DEA client to immediately provide to the participant dealer, in writing:

a. the names of all personnel acting on the DEA client's behalf that the DEA client has authorized to enter a trade order using DEA; and

b. details of any change to this information.

[248] While the obligation in s. 4.4 of NI 23-103 (that is, the obligation to enter into a written agreement containing specified terms with its DEA clients) is imposed on the participant dealer, s. 4.7(4) of NI 23-103 imposes a prohibition directly on DEA clients. It prohibits a DEA client from providing access to or passing on its DEA to "another person or company other than the personnel <u>authorized under subparagraph 4.4(a)(vii)</u> [of NI 23-103]" (emphasis added).

[249] The Commission submits that s. 4.7(4) requires the DEA client (in this case, Oasis) to not extend its DEA except to personnel identified by name on a list previously provided to the participant dealer (in this case, JitneyTrade/Canaccord) in accordance with the term of the written agreement that satisfies s. 4.4(a)(vii) of NI 23-103.

[250] The Commission submits that Oasis breached s. 4.7(4) because it regularly provided its DEA to new Oasis Traders to permit them to trade on Canadian markets through Oasis's account without first providing the names and details of these Oasis Traders to JitneyTrade/Canaccord. Between 2012 and 2022, Oasis only provided or updated its list of traders to JitneyTrade/Canaccord on two occasions (in 2014 and 2022). In 2019 alone, 86 new Oasis Traders were given access to Oasis's DEA.

[251] The essence of the Commission's submission is that the phrase <u>"authorized under subparagraph 4.4(a)(vii)</u> [of NI 23-103]" in s. 4.7(4) must be interpreted to mean that the DEA client (*e.g.*, Oasis) has *both* authorized the personnel to enter a trade order using its DEA *and* has immediately identified the personnel to the participant dealer in writing. In other words, "authorized" for purposes of s. 4.7(4) means both authorized by the DEA client <u>and</u> notified to the participant dealer.

[252] The respondents first submit that Pang and Modi were Oasis's only authorized traders and that from JitneyTrade/Canaccord's perspective, they were responsible for all trading through the Oasis account. While we accept that Pang and Modi were responsible for all trading that went through the Oasis account with JitneyTrade/Canaccord, this is not an answer to the alleged breach of s. 4.7(4), because we find that Oasis did provide or pass on DEA to the Oasis Traders whenever Oasis gave them access to its Spire trading platform.

[253] The respondents also (and somewhat inconsistently) submit that Oasis authorized over 600 Oasis Traders in China before giving them access to the Spire trading platform and submit that all Oasis Traders were therefore "authorized" for purposes of s. 4.7(4). In substance, the respondents counter the Commission's position with the submission that all of the Oasis Traders were "authorized" for purposes of s. 4.7(4) of NI 23-103 when they were vetted and approved by Oasis and given access to Oasis's Spire platform, and therefore were given the ability to enter orders using Oasis's DEA.

[254] We recognize that s. 4.7(4) is not perfectly drafted. It does not define "authorized". Instead, s. 4.7(4) imports a reference to s. 4.4(a)(vii) *(i.e.*, "authorized in accordance with s. 4.4(a)(vii)") to set out what is meant by "authorized" in s. 4.7(4). Subparagraph 4.4(a)(vii) itself refers to authorization by a DEA client and notifying the participant dealer of the identities of authorized personnel as two separate concepts.

[255] The prohibition in s. 4.7(4) against providing or passing on DEA to personnel not "authorized under subparagraph 4.4(a)(vii)" does not say such personnel must be both "authorized and notified". However, based on a contextual reading of NI 23-103 and the interrelationship between s. 4.4(a)(vii) and s. 4.7(4), we read in that language to s 4.7(4) to find that Oasis has breached this provision of NI 23-103. We do so because, if authorization only requires a DEA client to provide or pass on to its personnel access to its DEA trading system, there could never be any unauthorized trading, based on the language of s. 4.7(4). We find that if the notification requirement is not read into s. 4.7(4), the prohibition in s. 4.7(4) would be rendered meaningless. It is evident that the regulator intended that "authorized" in s. 4.7(4) must include the immediate notification of authorized traders to the participant dealer.

[256] While Oasis provided a list of its authorized traders to JitneyTrade/Canaccord in 2014 and in 2022, it provided DEA to new Oasis Traders on a regular and ongoing basis. Oasis did not provide the names of these traders to JitneyTrade/Canaccord at the time it gave them DEA. The fact that Oasis provided a list of Oasis Traders to JitneyTrade/Canaccord whenever JitneyTrade/Canaccord asked for the list is not sufficient to satisfy the requirements of s. 4.7(4). Nor is the fact that the information about the identity of Oasis Traders may have been theoretically available to JitneyTrade/Canaccord by virtue of individual trader ID numbers included in optional FIX tags associated with individual Oasis orders.

[257] Accordingly, we find that Oasis provided or passed on its DEA to Oasis Traders contrary to s. 4.7(4) of NI 23-103.

4.5 Did the individual respondents authorize, permit or acquiesce in Oasis's non-compliance?

[258] Pursuant to s. 129.2 of the *Act*, a director or officer is deemed to be liable for non-compliance with Ontario securities law by a company where the director or officer authorized, permitted or acquiesced in the company's non-compliance. The threshold for liability is low.[59]

[259] Pang and Modi are the sole officers and directors of Oasis. They are the directing minds of the company with knowledge of all aspects of its business model, structure and activities.

[260] We found that Oasis breached Ontario securities law by providing DEA to unauthorized persons. Providing Oasis's DEA to the Oasis Traders was fundamental to the Oasis proprietary trading business. Pang was the person who vetted new Oasis Traders and approved granting them access to the Spire system, thus providing them with DEA. Modi was fully aware of this. Both Pang and Modi knew that Oasis was providing DEA to traders without providing the names of these traders to JitneyTrade/Canaccord at the time it gave them DEA. We therefore find that Pang and Modi authorized, permitted or acquiesced in Oasis's non-compliance.

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[59] *Maple Leaf Investment Fund Corp (Re)*, 2011 ONSEC 31 at para 362

[261] We also found that all the respondents engaged in a form of market manipulation known as spoofing, contrary to s. 126.1(1)(a) of the *Act.* However, we decline to make a finding that Pang and Modi authorized, permitted or acquiesced in Oasis's breach of s. 126.1(1)(a), since we found them directly responsible for the same misconduct,[60] for the same reasons underlying Oasis's breach. Had we not found that Pang and Modi also breached s. 126.1(1)(a), we would have deemed them liable for Oasis's breach of s. 126.1(1)(a) under s. 129.2.

5. CONCLUSION

[262] For the above reasons, we find that:

a. the respondents breached s. 126(1)(a) of the *Act* by engaging in market manipulation in the form of spoofing;

b. Oasis engaged in conduct contrary to the public interest for its failure to establish and maintain adequate systems of control and supervision;

c. Oasis provided DEA to unauthorized persons contrary to s. 4.7(4) of NI 23-103; and

d. Pang and Modi authorized, permitted or acquiesced in Oasis's contravention of s. 4.7(4) of NI 23-103, and are therefore deemed to also have not complied with Ontario securities law, pursuant to s. 129.2 of the *Act*; and

e. the Commission failed to establish that:

   i. Oasis breached s. 25(1) of the *Act* by engaging in unregistered trading without an applicable exemption, as the exemption from registration found in s. 8.5(a) of NI 31-103 is available to it;

   ii. the respondents breached s. 126(1)(a) with respect to market manipulation in the form of wash trading;

   iii. Oasis breached s. 32(2) of the *Act*, as Oasis is not a registrant or required to be registered; and

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[60] *Hogg* at para 228

iv. Pang and Modi engaged in conduct contrary to the public interest.

[263] Also, for the above reasons, we decline to find Pang and Modi liable under s. 129.2 of the *Act* for Oasis's breach of s. 126.1(1)(a) for market manipulation in the form of spoofing.

[264] We therefore require that the parties contact the Registrar by 4:30 p.m. on August 12, 2026, to arrange for a case management hearing for the purpose of scheduling a hearing regarding sanctions and costs and the delivery of materials in advance of that hearing. The case management hearing is to take place on a mutually convenient date that is fixed by the Registrar, and that is no later than August 28, 2026.

[265] If the parties are unable to present a mutually convenient date for the case management hearing to the Registrar, each party may submit to the Registrar, for consideration by a panel of the Tribunal, a one-page written submission regarding a date for the hearing. Any such submission shall be submitted by 4:30 p.m. on August 12, 2026.

Dated at Toronto this 21st day of July, 2026

"Mary Condon"

Mary Condon

"Andrea Burke"

Andrea Burke

"Sandra Blake"

Sandra Blake