



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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

- AND -

**IN THE MATTER OF
THE JUNIPER FUND MANAGEMENT CORPORATION, JUNIPER INCOME FUND,
JUNIPER EQUITY GROWTH FUND and ROY BROWN
(a.k.a. ROY BROWN-RODRIGUES)**

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

WHEREAS on March 8, 2006, the Ontario Securities Commission (the “Commission”) ordered pursuant to subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) that all trading in the securities of the Juniper Income Fund (“JIF”) and the Juniper Equity Growth Fund (“JEGF”) collectively (the “Funds”) shall cease forthwith for a period of 15 days from the date thereof (the “Temporary Order”);

AND WHEREAS pursuant to subsections 127(1) and 127(5) of the Act, a hearing was scheduled for March 23, 2006 at 10:00 a.m. (the “Hearing”);

AND WHEREAS the Respondents were served with the Temporary Order, the Notice of Hearing dated March 21, 2006, the Statement of Allegations dated March 21, 2006 and the Affidavit of Trevor Walz sworn March 17, 2006;

AND WHEREAS on March 23, 2006, the Commission ordered: (i) an extension of the Temporary Order to May 4, 2006; and (ii) an adjournment of the Hearing to May 4, 2006;

AND WHEREAS Staff have advised that the Commission issued two Directions dated May 4, 2006 under subsection 126(1) of the Act freezing bank accounts of The Juniper Fund Management Corporation ("JFM"), the Funds and Roy Brown without notice to any of the Respondents;

AND WHEREAS on May 4, 2006, the Commission ordered: (i) the Hearing adjourned to May 23, 2006; (ii) the Temporary Order extended to May 23, 2006; (iii) JFM not to be paid any monthly management fees; (iv) JFM's requests for funds to pay expenses incurred by the Funds to continue to be subject to approval by NBCN Inc. ("NBCN"); (v) weekly lists of expenses by the Funds to continue to be provided to and reviewed by Staff; and (vi) neither JFM nor Roy Brown to deal in any way with the assets or investments of the Funds;

AND WHEREAS Staff have advised that on May 11, 2006 and June 30, 2006, the Ontario Superior Court of Justice (the "Superior Court") ordered that the two Directions dated May 4, 2006 freezing bank accounts of JFM, the Funds and Roy Brown be extended with the exception of the personal accounts and one JFM account as defined in the Superior Court orders dated May 11, 2006 and June 30, 2006;

AND WHEREAS the two Directions expired on September 30, 2006;

AND WHEREAS on May 18, 2006, the Superior Court issued an *ex parte* order appointing Grant Thornton Limited as receiver (the "Receiver") over the assets, undertakings and properties of JFM and the Funds;

AND WHEREAS on May 18, 2006, the Commission granted leave to McMillan Binch Mendelsohn LLP to withdraw as counsel for the Respondents;

AND WHEREAS on May 23, 2006, the Commission ordered: (i) the Hearing adjourned to September 21, 2006; and (ii) the Temporary Order extended to September 21, 2006;

AND WHEREAS on June 2, 2006, the Superior Court confirmed and extended the Receivership Order and approved the conduct of the Receiver and its counsel as set out in the First Report of the Receiver dated May 30, 2006;

AND WHEREAS on September 21, 2006, the Commission ordered: (i) the Hearing adjourned to November 8, 2006; and (ii) the Temporary Order extended to November 8, 2006;

AND WHEREAS NBCN and National Bank Financial Ltd. (“NBFL”) have brought a motion for intervenor status in these proceedings (the “Intervenor Motion”);

AND WHEREAS on November 7, 2006, the Commission adjourned the Hearing and the Intervenor Motion to December 13, 2006 and extended the Temporary Order to December 13, 2006;

AND WHEREAS on November 17, 2006, the Superior Court ordered, *inter alia*, that: (i) the Receiver is authorized to call a meeting of unitholders of the Funds; and (ii) the conduct of the Receiver and its counsel, as described in the Second and Third Reports of the Receiver, is approved without prejudice to the right of NBFL and NBCN to dispute the Receiver’s conclusion that NBFL and NBCN hold no units in the JEGF;

AND WHEREAS by letter dated December 6, 2006, counsel for NBCN and NBFL advised that they intended to withdraw the Intervenor Motion;

AND WHEREAS on December 13, 2006, the Commission ordered: (i) an extension of the Temporary Order to March 2, 2007; and (ii) an adjournment of the Hearing to March 2, 2007;

AND WHEREAS on December 13, 2006, counsel for the Receiver advised that the Receiver will shortly be sending out an update letter to all unitholders explaining the steps taken by the Receiver and the status of the ongoing receivership;

AND WHEREAS on December 13, 2006 Staff advised that Staff's investigation and the investigation by the Receiver are both ongoing and there was a reasonable prospect that Staff's investigation would be completed by March 2007;

AND WHEREAS on December 13, 2006, counsel for the Receiver and Staff of the Commission consented to: (i) an adjournment of the Hearing to March 2, 2007; and (ii) an extension of the Temporary Order to March 2, 2007 and counsel for Roy Brown did not consent to the adjournment or the extension of the Temporary Order and requested the earliest possible return date;

AND WHEREAS on December 13, 2006, counsel for Roy Brown and Staff of the Commission scheduled a tentative pre-hearing conference with a Commissioner on February 27, 2007 at 11:00 a.m.;

AND WHEREAS on March 2, 2007, Staff advised that Staff's investigation and the investigation by the Receiver are both ongoing and that there is a reasonable prospect that Staff's investigation will be completed by April 2007;

AND WHEREAS on March 2, 2007, Staff advised that the tentative pre-hearing conference scheduled for February 27, 2007 did not proceed as Staff's investigation was ongoing;

AND WHEREAS on March 2, 2007, Staff advised that thirteen volumes of initial Staff disclosure were sent to counsel for Roy Brown on February 23, 2007;

AND WHEREAS on March 2, 2007, counsel for the Receiver provided an update of the ongoing receivership and advised that an update letter had been sent to all unitholders;

AND WHEREAS on March 2, 2007, Staff of the Commission requested and counsel for the Receiver consented to: (i) an adjournment of the Hearing to May 22, 2007; and (ii) an extension of the Temporary Order to May 22, 2007 and counsel for Roy Brown did not consent to the adjournment and extension of the Temporary Order;

AND WHEREAS on March 2, 2007, the Commission ordered: (i) an extension of the Temporary Order to May 22, 2007; and (ii) an adjournment of the Hearing to May 22, 2007;

AND WHEREAS the First, Second, Third and Fourth Reports of the Receiver have been filed with the Commission;

AND WHEREAS on May 22, 2007, based on Staff's submissions, the panel expected that Staff would conclude their investigation, amend their Statement of Allegations, provide additional disclosure to the Respondents and have attended at a pre-hearing conference in order to set a date for a hearing on the merits, all by mid-July 2007;

AND WHEREAS on May 22, 2007, Staff of the Commission requested and the Commission ordered: (i) an adjournment of the Hearing to July 17, 2007; and (ii) an extension of the Temporary Order to July 17, 2007, and whereas counsel for Roy Brown did not consent and counsel for the Receiver did consent to the adjournment and extension of the Temporary Order;

AND WHEREAS Staff of the Commission provided fifteen volumes of disclosure to counsel for Roy Brown on June 14 and 21, 2007 and the remaining five volumes of disclosure on July 9, 2007;

AND WHEREAS Staff of the Commission amended the Statement of Allegations on July 5, 2007;

AND WHEREAS a pre-hearing conference was held on July 20, 2007 and a second pre-hearing conference is scheduled for September 18, 2007;

AND WHEREAS on July 17, 2007, Staff of the Commission requested and counsel for the Receiver consented to and counsel to Roy Brown neither consented to nor opposed and the Commission ordered: (i) an adjournment of the Hearing to September 4, 2007; and (ii) an extension of the Temporary Order to September 4, 2007;

AND WHEREAS the parties were provided and agreed at the last pre-hearing conference to tentative hearing dates of April 7 to 11, 2008 and April 14 to 18, 2008;

AND WHEREAS on September 4, 2007, the Commission ordered: (i) the Hearing to commence on April 7, 2008 and continue for nine days; and (ii) an extension of the Temporary Order until the conclusion of the Hearing;

AND WHEREAS on November 14, 2007, the Superior Court ordered, *inter alia*, that : (i) the activities and conduct of the Receiver as described in the Fifth Report of the Receiver are hereby approved; (ii) the claims process defined in the Fifth Report of the Receiver is hereby approved; and (iii) the JEGF unitholder registry is amended as described in the Fifth Report of the Receiver;

AND WHEREAS on November 15, 2007, the Receiver held separate unitholder meetings for the Funds to obtain direction on how the receivership should proceed;

AND WHEREAS JEGF unitholders voted 99.65% in favour of liquidating the investments held by JEGF and completing a redemption of all JEGF units;

AND WHEREAS JIF unitholders voted 100% in favour of liquidating the investments held by JIF and completing a redemption of all JIF units;

AND WHEREAS on January 14, 2008, the Superior Court ordered, *inter alia*, that : (i) the distribution process to JEGF and JIF unitholders as proposed by the Receiver was approved; (ii) the JEGF unitholder registry as prepared by the Receiver was complete and final; and (iii) the JIF unitholder registry as prepared by the Receiver was complete and final (the "Distribution Approval Order");

AND WHEREAS on February 22, 2008, the Commission revoked the Temporary Order pursuant to section 144 of the Act to permit the Receiver to complete a distribution of redemption proceeds to JEGF unitholders and JIF unitholders, in accordance with the Distribution Approval Order;

AND WHEREAS on March 13, 2008, the Commission granted leave for the withdrawal of Brown's counsel of record;

AND WHEREAS on March 26, 2008, Brown brought a motion to adjourn the Hearing on the basis that he is no longer represented by counsel and he needed additional time to prepare for the Hearing;

AND WHEREAS on March 31, 2008, Brown requested an adjournment and advised that: (1) he is no longer represented by counsel; (2) he has not yet seen Staff's disclosure volumes which were served on his former counsel; and (3) he requires additional time to prepare for the Hearing;

AND WHEREAS Staff opposed the adjournment request on the basis that the dates have been scheduled since September 4, 2007, witnesses have been summonsed and Staff are ready to proceed;

AND WHEREAS on March 31, 2008, the Commission ordered that: (i) the Hearing scheduled to commence on April 7, 2008 is adjourned; (ii) the Hearing will commence on June 16, 2008, or such other date as is agreed by the parties and determined by the Office of the Secretary;

AND WHEREAS on June 4, 2008, Staff brought a motion to adjourn the Hearing as Staff were not available on June 16, 2008;

AND WHEREAS Staff, Brown and counsel for the Receiver consented to the Hearing being adjourned to a date to be set by a pre-hearing conference commissioner or agreed to among the parties;

AND WHEREAS the Office of the Secretary tentatively scheduled the Hearing for June 15 to 19, 2009 but Brown was not available on those dates, and a second pre-hearing conference had not been confirmed prior to these dates being scheduled;

AND WHEREAS Staff requested by letter to the Secretary's office dated December 23, 2009 that a pre-hearing conference in this matter be scheduled;

AND WHEREAS a pre-hearing conference was held on March 2, 2010 at which a further pre-hearing conference was scheduled for April 30, 2010 at 9:30 a.m.;

AND WHEREAS a pre-hearing conference was held on April 30, 2010 at which the parties agreed to hearing dates of November 15 to 18, November 24 to 26, November 29 and 30 and December 1 and 2, 2010 a to a second pre-hearing conference on June 16, 2010;

AND WHEREAS a pre-hearing conference was held on June 16, 2010 at which Staff and Roy Brown provided an update on their preparations for the hearing scheduled to commence on November 15, 2010 and Staff agreed to complete Staff's productions and interview and deliver witness statements for two potential Staff witnesses prior to the next pre-hearing conference;

AND WHEREAS Brown has provided Staff with some of the documents on which he intends to rely;

AND WHEREAS the parties have agreed to continue their discussions on the outstanding issues;

AND WHEREAS pre-hearing conferences were held on October 1, 2010, October 20, 2010 and November 1, 2010;

AND WHEREAS the Commission advised the parties during the pre-hearing conference on November 1, 2010 that because of the inability to provide a hearing panel, the Commission is not available for the hearing on the merits scheduled to commence on November 15, 2010 and continue on November 16, 17, 24, 25, 26 and 29, 30 and December 1 and 2, 2010;

AND WHEREAS the parties have agreed to continue the ongoing pre-hearing conference on December 6, 2010 at 2:00 p.m., which was later adjourned and scheduled to be held on January 24, 2011 at 9:30 a.m.;

AND WHEREAS a pre-hearing conference was held on January 24, 2011, and Staff appeared and Roy Brown participated by telephone conference;

AND WHEREAS on January 24, 2011, the Commission ordered that the hearing on the merits shall be held on September 14, 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011, or on such other dates as may be agreed by the parties and scheduled by the Office of the Secretary;

AND WHEREAS on January 24, 2011, the parties agreed that a further pre-hearing conference should be held before the hearing on the merits for the purpose of identifying agreed facts and outstanding issues;

AND WHEREAS, having considered the submissions of Staff and Roy Brown, it is the opinion of the Commission that it is in the public interest to make the following order;

IT IS ORDERED THAT:

- (i) the hearing on the merits shall be held at the offices of the Commission on September 14, 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011, or on such other dates as may be agreed by the parties and scheduled by the Office of the Secretary; and
- (ii) a further pre-hearing conference may be held on a date to be agreed by the parties and scheduled by the Office of the Secretary for the purpose of identifying agreed facts and outstanding issues.

DATED at Toronto this 24^h day of January, 2011

“Patrick J. LeSage”

Patrick J. LeSage, Q.C.