



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

WHEREAS on March 21, 2006, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. c. S.5, as amended (the “Act”) accompanied by a Statement of Allegations of the same date issued by Staff of the Commission (“Staff”) with respect to The Juniper Fund Management Corporation, Juniper Income Fund (“JIF”) and the Juniper Equity Growth Fund (“JEGF”) and Roy Brown (a.k.a. Roy Brown-Rodrigues) (“Brown”);

AND WHEREAS a hearing was convened by the Commission on March 23, 2006, and adjourned on various dates for various reasons between March 23, 2006, and September 4, 2007;

AND WHEREAS on September 4, 2007, the Commission ordered the hearing of the merits of Staff’s allegations would commence on April 7, 2008, and continue on April 8, 9, 10, 11 and 14, 16, 17 and 18, 2008 (“the Merits Hearing”);

AND WHEREAS on March 31, 2008, the Commission heard a motion by Brown to adjourn the Merits Hearing on the grounds that he was no longer represented by counsel, he had not seen Staff’s disclosure volumes which were served on his former counsel and needed additional time to prepare for the Merits Hearing, which motion Staff opposed;

AND WHEREAS on March 31, 2008, the Commission granted Brown’s motion and ordered that the Merits Hearing be adjourned to June 16, 2008;

AND WHEREAS on June 4, 2008, Staff brought a motion to adjourn the Merits Hearing due to Staff’s availability on June 16, 2008;

AND WHEREAS the Office of the Secretary tentatively scheduled the Merits Hearing for June 15 to 19, 2009 but Brown was not available on those dates;

AND WHEREAS on January 24, 2011, the Commission ordered that the Merits Hearing shall begin on September 14, 2011, and continue on September 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011;

AND WHEREAS on August 25, 2011, the Commission heard a motion by Brown to adjourn the Merits Hearing without setting new dates on the grounds that he was unable to participate in the hearing for reasons related to his health;

AND WHEREAS on August 30, 2011, the Commission dismissed Brown's motion but cancelled the hearing dates for September 14 and 15, 2011, and ordered that the Merits Hearing shall commence on September 16, 2011, and proceed as previously scheduled;

AND WHEREAS on September 16, 2011, Brown brought a motion to vary the Commission's Order of August 30, 2011, dismissing his adjournment motion;

AND WHEREAS the Commission denied Brown's motion to vary the Commission's adjournment decision and ordered that the Hearing commence on September 19, 2011;

AND WHEREAS the Hearing commenced on September 19, 2011 and continued thereafter on September 20, 21, 22, 23, 28, 29, and October 5, 2011;

AND WHEREAS on October 5, 2011, Brown advised the Commission that he wished an opportunity to cross-examine Staff's witnesses and call witnesses of his own but was unable to participate in the Merits Hearing due to his medical condition, and the Commission adjourned the hearing to November 9, 2011;

AND WHEREAS by e-mail dated November 6, 2011, Brown requested a further adjournment of the Merits Hearing for medical reasons with supporting evidence for this request;

AND WHEREAS on November 9, 2011, the Commission ordered: (i) the Merits Hearing be adjourned to December 21, 2011, and (ii) Brown to provide the Commission with an update and evidence about his progress and medical condition by November 30, 2011;

AND WHEREAS on December 21, 2011, the Commission considered the evidence provided by Brown and ordered: (i) Brown to bring a motion to recall Staff's witnesses on February 14, 2012; and (ii) the Merits Hearing to continue on February 27, 29 and March 2, 5 and 6, 2012;

AND WHEREAS on February 14, 2012, Brown brought a motion seeking an adjournment of the Merits Hearing for approximately 60 days on the basis that his medical condition prevented him from participating in his motion to recall Staff's witnesses;

AND WHEREAS on February 14, 2012, the Commission heard submissions on Brown Adjournment Motion, withheld its decision, and requested the parties re-attend to continue the motion on February 22, 2012, in order to allow Brown to provide the Commission with supporting evidence for his motion;

AND WHEREAS on February 17, 2012, Brown filed supporting evidence for his request to adjourn the Merits Hearing and on February 22, 2012, the parties made further submissions in respect thereof;

AND WHEREAS on February 27, 2012, the Commission issued the following Order:

- (1) The Hearing is adjourned on a peremptory basis and shall continue on April 4, 5, 11, 12, 13 and 16, 2012, with or without counsel;
- (2) Brown is permitted to recall Staff's witnesses on the condition that he must advise the Commission by March 21, 2012 as to which of Staff's witnesses he wishes to recall. Accordingly, the need for Brown to bring forward a motion to recall Staff's witnesses is dispensed with;
- (3) Brown shall provide Staff with a list of his own witnesses that he intends to call at the Hearing by March 21, 2012;
- (4) Brown is permitted to participate in the Hearing by way of teleconference as requested; and
- (5) The medical evidence provided by Brown in support of the Brown Adjournment Motion is confidential and shall not form part of the public record.

AND WHEREAS on March 21, 2012, Brown provided the Office of the Secretary a list of Staff's witnesses he intend to cross-examine, along with the names of the persons he intended to call as witnesses;

AND WHEREAS on March 30, 2012, Mr. Brown sent an e-mail to the Office of the Secretary indicating that he was not capable of participating in the continuation of the Merits Hearing on April 4, 2012;

AND WHEREAS on April 4, 2012, the Commission heard submissions from Staff and Brown on the issue of whether the Merits Hearing should proceed on that date;

AND WHEREAS the Commission has considered the submissions made by Staff, the history of this proceeding, and the prejudice that could result from a further delay in the completion of the Merits Hearing;

AND WHEREAS the Commission finds that the prejudice to Brown by continuing the Merits Hearing without his participation is significant and warrants one final adjournment;

AND WHEREAS the Commission has considered the factors set out in rule 9 of the *Ontario Securities Commission Rules of Procedure* (2010), 33 O.S.C.B. 8017;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

- (1) The Merits Hearing is adjourned to May 28, 2012, at the offices of the Commission, 20 Queen Street West, 17th Floor, Toronto, and will continue on May 29, 30, 31 and June 1, 8, 20 and 22, 2012;
- (2) The hearing on May 30, 2012, will commence at 9:00 am and conclude at 1:30 pm, while on all other dates the hearing will begin at 10:00 am and conclude at or before 5:00 pm; and
- (3) The hearing dates scheduled in this matter for April 5, 11, 12, 13 and 16, 2012, are vacated.

DATED at Toronto on this 5th day of April, 2012.

“Vern Krishna”

Vern Krishna, Q.C.

“Margot C. Howard”

Margot C. Howard