



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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FILE NO.: 2018-36

**IN THE MATTER OF
CALDWELL INVESTMENT MANAGEMENT LTD.**

Timothy Moseley, Vice-Chair and Chair of the Panel

July 19, 2019

ORDER

(Sections 127 and 127.1 of the
Securities Act, RSO 1990 c S.5)

WHEREAS on July 19, 2019, the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the Application made jointly by Caldwell Investment Management Ltd. (**Caldwell**) and Staff of the Commission (**Staff**) for approval of a settlement agreement entered into on July 10, 2019 (the **Settlement Agreement**);

ON READING the Statement of Allegations dated June 12, 2018, and the Settlement Agreement, and on hearing the submissions of the representatives for Staff and for Caldwell;

IT IS ORDERED THAT:

- (a) the Settlement Agreement is approved;
- (b) the terms and conditions set out in Schedule "A" to this order are imposed on Caldwell's registration, pursuant to paragraph 1 of subsection 127(1) of the *Securities Act* (the **Act**);
- (c) Caldwell be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
- (d) Caldwell pay an administrative penalty in the amount of \$1,800,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act;
- (e) Caldwell pay costs of the investigation in the amount of \$250,000, pursuant to section 127.1 of the Act; and

- (f) the amounts referred to in paragraphs (d) and (e) shall be paid as follows:
- (i) \$1,025,000 on the date of this order; and
 - (ii) \$1,025,000 on or before April 19, 2020.

"Timothy Moseley"

Timothy Moseley

SCHEDULE “A” TO ORDER

TERMS AND CONDITIONS

Retention and Mandate of Consultant

1. Within sixty days of the date of the order approving the settlement agreement between Caldwell Investment Management Ltd. (“**CIM**”) and staff of the Ontario Securities Commission (“**Staff**”) in Ontario Securities Commission File 2018-36 (the “**Approval Order**”), CIM shall retain, at its own expense, an independent consultant (the “**Consultant**”) acceptable to a Deputy Director or Manager in the Compliance and Registrant Regulation Branch of the Commission (the “**OSC Manager**”) to review and test CIM’s new policies and procedures regarding the discharge of its best execution obligation under Ontario securities law (“**New Best Execution Procedures**”) to ensure that:
 - a. the New Best Execution Procedures and CIM’s use of its affiliated dealer, Caldwell Securities Limited (“**CSL**”), to execute bond and equity trades fully comply with applicable law, including National Instrument 23-101 *Trading Rules*, National Instrument 23-102 *Use of Client Brokerage Commissions*, subsection 32(2) of the Act, sections 11.1 and 13.4 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and Part 2 of National Instrument 81-107 *Independent Review Committee for Investment Funds*;
 - b. the New Best Execution Procedures are specifically tailored to CIM’s own business practices, including its use of its affiliated dealer, CSL, to execute bond and equity trades, and are consistent with prudent business practices and best industry standards;
 - c. the New Best Execution Procedures have been fully implemented, and are being appropriately followed and administered by CIM and its trade management oversight committee; and
 - d. all applicable CIM staff are trained on best execution matters to ensure compliance with applicable laws related to the New Best Execution Procedures.

Consultant’s Report

2. Within nine months of the date of the Approval Order, CIM shall require the Consultant to deliver to the OSC Manager a written report describing the Consultant’s testing and assessment for a six month period following the Approval Order of whether the requirements of paragraphs 1(a) to 1(d) above, have been met (the “**Consultant’s Report**”) for the OSC Manager’s review and approval.

OSC Manager Review of Consultant's Report

3. If, following the OSC Manager's review of the Consultant's Report, it appears to the OSC Manager that all requirements of paragraphs 1(a) to 1(d) above have been satisfied, the OSC Manager shall notify CIM in writing accordingly.
4. If, following the OSC Manager's review of the Consultant's Report, it appears to the OSC Manager that any requirements of paragraphs 1(a) to 1(d) above have not been satisfied, CIM shall work with the Consultant to satisfy all such outstanding requirements, and shall submit such reports of that work, including any necessary revisions, to the OSC Manager as may be requested by the OSC Manager until such time as the OSC Manager informs CIM in writing that it appears to the OSC Manager that all requirements of paragraphs 1(a) to 1(d) above have been satisfied.

Other Procedural Matters

5. CIM shall provide the Consultant with reasonable access to all books and records necessary to complete the Consultant's mandate and will allow the Consultant to meet privately with CIM's officers, directors and employees. CIM shall require its officers, directors and employees to co-operate fully with the Consultant with respect to the Consultant's work and with respect to the implementation of any of the recommendations in the Report.
6. CIM shall not terminate the Consultant's retainer without the prior written authorization by the OSC Manager.
7. CIM shall submit to Staff a direction giving consent for unrestricted access and permission for Staff and the Consultant to communicate with one another regarding the Consultant's work and/or any other matter relevant to this review.