

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

- and -

IN THE MATTER OF RON CARTER HEW

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated June 23, 2005, the Ontario Securities Commission (the “Commission”) announced that it would hold a hearing on July 6, 2005 to consider whether pursuant to section 127 of the Ontario *Securities Act*, R.S.O. 1990, c.S.5, as amended (the “Act”) it is in the public interest to approve the settlement agreement entered into between Staff of the Commission and the respondent, Ron Carter Hew (“Hew”).

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement of the proceeding initiated in respect of Hew in accordance with the terms and conditions set out below. Hew consents to the making of an order against him in the form attached as Schedule “A” on the basis of the facts set out below.

III. ACKNOWLEDGEMENT

3. Staff and Hew agree with the facts and conclusions set out in Part IV of this Settlement Agreement.

IV. AGREED FACTS

Background

4. Hew is an individual residing in North York, Ontario. He is presently 45 years old.
5. Hew completed his first year of engineering studies at the University of Toronto and thereafter, received additional professional certifications in electronics, data systems and computer technology.
6. From the completion of his formal education in 1979 until 2001, Hew worked in various computer technician positions.
7. Hew began trading in his own investment accounts at the approximate age of 25. He traded mostly in US hi-tech stocks and did so using margin and options.
8. In 2001, Hew ceased employment in order to trade on his own behalf and on behalf of others.
9. Hew enrolled in but did not complete the Canadian Securities Course. He has taken no other investment courses and has not obtained any certificates or professional designations in the investment industry. Hew has never been registered by the Commission as an adviser.
10. Hew does not presently have any RRSP accounts. Hew continues to hold two investment accounts; one at TD Waterhouse ("TDW") and one at the Canadian Imperial Bank of Commerce ("CIBC"). The TDW account presently contains no funds. The CIBC account contains approximately \$300. Hew has not traded in his own accounts since approximately 2001 due to a lack of funds.

11. From November, 2001 to February, 2002, Hew had a margin account at TDW. The account was closed by TDW for failure to meet margin calls. Hew's re-application for a margin account in or about February 14, 2002, was declined.

12. On November 12, 2003, Hew filed for bankruptcy. Hew is scheduled to be discharged from bankruptcy in mid-August of 2005, provided that he continues to make the requisite monthly payments (approximately \$400) to satisfy creditors as directed by the Trustee in bankruptcy.

13. Hew is presently unemployed.

Hew Engaged in the Business of Advising

(a) Trading in the Accounts of Others

14. Between 1992 and 2004, Hew directed trading in the investment accounts of at least 17 individuals (including three members of an investment club) by, in all but one case, obtaining trading authorizations and/or internet passwords for accounts opened by them (the "Investors").

15. All of the Investors were Ontario residents. Hew met the Investors through work, sports, Church, his wife and his condominium residence.

16. The TDW trading authorizations signed by Investors and Hew read, in part, as follows:

...You [Investor] authorize Ron Hew to act as your agent to buy, sell (including short sales), and trade in securities on margin or otherwise for the accounts listed in your name of number on our records. Your agent is authorized to act for you in the same manner and with the same force and effect as if you had taken such action with us. You authorize us to follow your agent's instructions regarding these purchases, sales, or trades, in every respect and you approve of any transactions your agent makes with us for your account. ...

17. In all but two cases, Hew entered into agreements with the Investors such that he would be paid a commission on a monthly basis in the amount of 20-30% of any profit achieved during the previous month of trading.

18. Hew effectively employed the same trading strategy for each of the Investors, regardless of their means and investment objectives. This strategy involved frequent trading primarily in US hi-tech stocks utilizing margin and options.

19. Hew did not conduct any suitability analysis with respect to his trading strategy. He did not consider the net worth, number of dependents, annual income or the personal circumstances of the Investors to be relevant considerations and did not adjust his trading strategy with a view to any of these factors.

20. Hew did not provide adequate explanations to the Investors as to the risks associated with his aggressive trading in options, margin and hi-tech stocks.

21. In the case of six of the Investors, Hew traded in RRSP accounts.

22. In all but one case, Hew depleted all or substantially all of the funds held in the accounts. In all but one case, Hew dictated all trading in the accounts without input from the Investors.

23. Hew did not advise each subsequent investor of the fact that he had depleted the investment accounts of the investors for whom he had traded in the past, nor did he provide any of the Investors with documentary proof of his prior investment results. Hew's disclosure to the Investors as to his past performance was limited to words to the effect that he had achieved "good gains but also some losses."

24. In total, losses in the approximate amount of \$600,000 to \$800,000 were realized by Hew in the Investors' accounts over which he had authority. In connection with those accounts, Hew received payments in the approximate amount of \$80,000 to \$100,000. These funds were used by Hew for daily living expenses and/or invested by him on his own behalf and ultimately, depleted.

25. In soliciting investors after approximately 2000, Hew provided business cards which read as follows: “Market Vision – Keeping an eye on your investments because timing is everything. Ron Hew, Market Timer & Equity Strategist and Portfolio Management Investment Seminars and Technical Analysis of Stocks”. Hew believes that, in total, he distributed approximately 50 of these cards. After 2001, Hew described himself as “Retired” on the trading authorization documents required to be signed by he and the Investors.

(b) The Investment Club

26. In or about April of 2002, Hew established an investment club comprised of three members in addition to himself (the “Investment Club”). The Investment Club held accounts at CIBC World Markets with funds totaling \$136,000; \$1,000 of which was provided by Hew. Hew directed all of the trades on behalf of the Investment Club. In return, it was agreed that he would receive a commission of 20% of the profits achieved on a monthly basis.

27. In total, Hew was paid commissions of approximately \$400 in connection with the Investment Club.

(c) Hew was “On Notice” of Registration Requirement

28. In or about May of 2001 the Commission’s inquiries unit received a complaint from an individual who had been solicited by Hew by email to join an investment club for a membership fee of \$1,000. On July 19, 2001, Staff of the OSC advised Hew in writing that he was required to be registered with the Commission as an adviser in order to engage in the “buying and selling of stocks for clients utilizing their on-line trading account numbers and passwords along with their trading authorizations on a commission basis”. Hew was also advised that registration was required to establish an investment club on a commission basis.

29. Hew responded to Staff’s letter in July of 2001 indicating that he had not, in fact, established an investment club due to lack of interest. Despite, Staff’s advice, Hew continued to trade on behalf of others for commissions using internet passwords and

trading authorizations. Hew established the Investment Club after receipt of Staff's letter.

Respondent's Position and Mitigating Factors

30. Hew cooperated with Staff during the investigation of this matter and during the process of settlement. The details as to investor losses and commissions were provided by Hew voluntarily (and were substantiated, where possible, through investor recollection and banking documentation).

31. Hew made partial or complete repayments of commissions totaling approximately \$11,300 to four of the seventeen Investors (to varying degrees and according to no specific formula). Hew also believes that the \$400 in commissions received from the Investment Club was repaid to the Club's account.

32. Hew paid one of the Investors \$8,000 USD, despite having received commissions of \$3,000-\$4,000. Hew made a payment of \$3,000 to another of the Investors from whom he had received no commissions. Hew's position is that these payments were made because the losses incurred in the accounts of these Investors had a particularly detrimental effect on them.

33. Hew believes that if some of the Investors had invested additional funds with him (in one case, from a LIRA account), he could have recouped their losses.

34. During the investigation of this matter, Hew advised Staff that he established the Investment Club in reliance on advice from his accountant that commissions could be classified as computer consulting fees for tax purposes. Hew's accountant does not corroborate this explanation.

Conduct Contrary to the Public Interest

35. The conduct of Hew described in Part IV above, constituted a contravention of subsection 25(1)(c) of the *Act* in that Hew acted as an adviser to the Investors without being registered with the Commission. This conduct was also contrary to the public interest.

V. TERMS OF SETTLEMENT

36. Hew agrees to the following terms of settlement:

- (a) pursuant to clause 2 of subsection 127(1) of the *Act*, Hew will cease trading securities for a period of 15 years, effective the date of the Order of the Commission approving the proposed Settlement Agreement, with the exception that Hew will be permitted to trade in securities in registered retirement savings plans in which Hew has sole beneficial interest;
- (b) pursuant to clause 6 of subsection 127(1) of the *Act*, Hew will be reprimanded by the Commission; and
- (c) Hew will attend in person at the hearing before the Commission to consider the proposed settlement.

VI. STAFF COMMITMENT

37. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any conduct or alleged conduct of Hew in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 41 below.

VI. PROCEDURE FOR APPROVAL OF SETTLEMENT

38. Approval of this Settlement Agreement shall be sought at the public hearing of the Commission scheduled for a date to be agreed to by Staff and Hew in accordance with the procedures described in this Settlement Agreement.

39. Staff and Hew agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting the respondents in this matter, and Hew agrees to waive his rights to a full hearing, judicial review, or appeal of the matter under the Act.

40. Staff and Hew agree that if this Settlement Agreement is approved by the Commission, neither Staff nor Hew will make any public statement inconsistent with this Settlement Agreement.

41. If Hew fails to honour the terms of this Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Hew based on the facts set out in Part IV of this Settlement Agreement, as well as the breach of this Settlement Agreement.

42. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an order in the form attached as Schedule "A" is not made by the Commission, each of Staff and Hew will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected by this Settlement Agreement or the settlement negotiations.

43. Whether or not this Settlement Agreement is approved by the Commission, Hew agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

VII. DISCLOSURE OF AGREEMENT

44. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both Hew and Staff or as may be required by law.

45. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

VIII. EXECUTION OF SETTLEMENT AGREEMENT

46. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

47. A facsimile copy of any signature shall be as effective as an original signature.

DATED this “23” day of June, 2005

Signed in the presence of:

“Marilyn Hew”

Witness

“Ron Hew”

Ron Hew

DATED this “17th” day of June, 2005

STAFF OF THE ONTARIO SECURITIES

Per:

“Michael Watson”

Michael Watson
Director, Enforcement Branch

SCHEDULE “A”

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

- and-

IN THE MATTER OF RON CARTER HEW

**O R D E R
(Sections 127)**

WHEREAS on [date], the Ontario Securities Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the “Act”) in respect of Ron Carter Hew (“Hew”);

AND WHEREAS entered into a Settlement Agreement with Staff of the Commission dated [date] (the “Settlement Agreement”) in which he agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from Hew, self-represented and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

- (a) pursuant to clause 2 of subsection 127(1) of the Act, Hew will cease trading securities for a period of 15 years, effective the date of the Order of the Commission approving the proposed Settlement Agreement, with the exception that Hew will be permitted to trade in securities in registered retirement savings plans in which Hew has sole beneficial interest; and

(b) pursuant to clause 6 of subsection 127(1) of the Act, Hew will be reprimanded by the Commission.

Dated at Toronto this day of June, 2005
