



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
ERIC INSPEKTOR**

- and -

**IN THE MATTER OF A
SETTLEMENT AGREEMENT BETWEEN STAFF
OF THE ONTARIO SECURITIES COMMISSION AND
ERIC INSPEKTOR**

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Eric Inspektor (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement of the proceeding against the Respondent (the “Proceeding”) commenced by the Notice of Hearing dated March 28, 2014 according to the terms and conditions set out in Part VI of this Settlement Agreement. The

Respondent agrees to the making of an order under sections 127 and 127.1 of the Act in the form attached as Schedule “A” (the “Order”), based on the facts set out in Part III below.

3. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III and the conclusion in Part IV of this Settlement Agreement.

4. Whether or not this Settlement Agreement is approved by the Commission:

(a) this Settlement Agreement and the facts and admissions set out herein are without prejudice to the Respondent in any proceeding (other than a regulatory proceeding commenced by a securities regulatory authority), including any current or future civil proceedings; and

(b) no person or agency (other than a securities regulatory authority in a regulatory proceeding) may raise or rely upon the terms of this Settlement Agreement, including the facts and admissions set out herein.

5. Without limiting the generality of paragraph 4 above, the Respondent denies that this Settlement Agreement constitutes an admission of civil liability.

PART III – AGREED FACTS

A. OVERVIEW

6. Between January 2005 and September 2011 (the “Material Time”), the Respondent engaged in the unregistered trading and illegal distribution of securities of:

(a) Kaptor Financial Inc. (“KFI”);

(b) CarCap Auto Finance Inc. (“CarCap Auto Finance”) and its subsidiaries, CarCap Inc. (“CarCap”) and the special purpose investment vehicles (the “Silos”) set forth in Schedule “B”; and

(c) 2025610 Ontario Limited (“202”).

7. In this Settlement Agreement, KFI, CarCap Auto Finance, CarCap, the Silos and 202 are collectively referred to as the “Kaptor Issuers”.

8. The Respondent was the directing mind of the Kaptor Issuers, which raised approximately \$90 million through the sale of securities, including shares, debentures, promissory notes and profit participation agreements. The majority of the approximately 190 investors were resident in Ontario. The Respondent and the Kaptor Issuers have never been registered with the Commission, no exemptions from the dealer registration requirement were available to them and none has filed a preliminary prospectus or a prospectus with the Commission.

9. The distributions of the securities of the Kaptor Issuers, which had not been previously issued, were not qualified by a prospectus and exemptions from the prospectus requirement were unavailable.

B. BACKGROUND

The Respondent and the Kaptor Issuers

10. The Respondent is a resident of Ontario.

11. During the Material Time, the Respondent was the self-titled “Group President and Chief Executive Officer” of the “Kaptor Group”, which included the Kaptor Issuers. The Respondent was the directing mind of the Kaptor Issuers and a director or officer of them, as described in paragraphs 12 through 14 below.

12. KFI was incorporated on February 16, 1988. The Respondent was a founder and director of KFI, as well as its controlling shareholder and President and Chief Executive Officer. During the Material Time, KFI held itself out as a boutique merchant bank and asset-based lender.

13. There were various subsidiaries of KFI, including CarCap Auto Finance, which was incorporated on September 11, 2006. CarCap Auto Finance also had various subsidiaries, including CarCap, which was incorporated on July 27, 1972, and the Silos. During the Material Time, CarCap Auto Finance and its subsidiaries held themselves out as providing sub-prime automotive financing. The Respondent was a director of CarCap Auto Finance and CarCap

(collectively, the “CarCap Companies”) and part of their senior management, as well as a director of the Silos.

14. 202 was incorporated on April 22, 2003. The Respondent was its sole shareholder, director and officer. During the Material Time, 202 acted as a holding company for the Respondent, owning approximately 47% of the common shares and all of the Class A Preference Shares of KFI. 202 also distributed various securities, including profit participation agreements, the stated purpose of which was to finance the operations of Insignia Trading Inc. (“Insignia”). Insignia, a subsidiary of KFI of which the Respondent was a director and officer, held itself out as a licensed distributor of household products.

Current Status of the Kaptor Issuers

15. In December 2011, the CarCap Companies were placed into receivership. Their assets were sold and the proceeds distributed to secured institutional creditors pursuant to an order of the Ontario Superior Court of Justice dated March 13, 2012. The CarCap Companies were placed into bankruptcy on April 19, 2012.

16. In June 2012, a receiver was appointed in respect of, among others, KFI and 202, which had no assets. They were placed into bankruptcy on August 19, 2014.

17. As of September 2011, of the approximately \$90 million raised during the Material Time, at least \$38 million in principal was owed by the Kaptor Issuers to investors. Investors have commenced civil legal proceedings against the Respondent and the Kaptor Issuers to recover the amounts owing to them.

C. UNREGISTERED TRADING AND ILLEGAL DISTRIBUTIONS

18. During the Material Time, the Kaptor Issuers issued and sold various securities, including the following:

- (a) common shares, preference shares, warrants, promissory notes, term debentures and other evidence of indebtedness of KFI;
- (b) promissory notes, debentures, profit participation agreements and a co-tenancy agreement of 202; and

(c) preference shares and term debentures of the CarCap Companies and the Silos.

19. The capital raising activities of the Kaptor Issuers were carried out by or under the direction of the Respondent. He signed, on behalf of the Kaptor Issuers, many of their securities, including share certificates, debentures and profit participation agreements.

20. The Respondent obtained approximately \$3 million from the Kaptor Issuers in the form of, *inter alia*, salary, returns on preference shares and shareholder “loans” that were never repaid.

21. The conduct described above includes the unregistered trading and illegal distribution of securities by the Respondent where no exemptions from the dealer registration or prospectus requirements were available. Further, the Respondent authorized, permitted or acquiesced in the unregistered trading and illegal distribution of securities by the Kaptor Issuers.

PART IV – VIOLATIONS OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

22. By engaging in the conduct described above, the Respondent admits and acknowledges that, during the Material Time:

- (a) the Respondent engaged in or held himself out as engaging in the business of trading in securities of the Kaptor Issuers without being registered to do so, where no exemption from the dealer registration requirement was available, contrary to subsection 25(1)(a) of the Act;
- (b) the Respondent distributed securities of the Kaptor Issuers where neither a preliminary prospectus nor a prospectus in respect of the securities had been filed or receipts issued for them by the Director and where no exemption from the prospectus requirement was available, contrary to subsection 53(1) of the Act;
- (c) the Respondent authorized, permitted or acquiesced in the Kaptor Issuers’ non-compliance with Ontario securities law and accordingly is deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act; and
- (d) the Respondent’s conduct was contrary to the public interest.

PART V – RESPONDENT’S POSITION

23. The Respondent requests that the panel presiding at the Settlement Hearing (as defined in paragraph 26 below) consider the following:

- (a) the Respondent relied on legal advice provided by an Ontario law firm to a Canadian financial institution that concerned the applicability of exemptions from the prospectus requirement to certain of the distributions described herein.

PART VI – TERMS OF SETTLEMENT

24. The Respondent agrees to the terms of settlement set forth below, which terms are also set forth in the Order ordering that:

- (a) this Settlement Agreement be approved;
- (b) trading in any securities or derivatives by the Respondent cease permanently (other than trading for the Respondent’s personal registered retirement savings plan, registered retirement income fund or registered disability savings plan account or for any registered education savings plan account of which the Respondent is a beneficiary or a sponsor), pursuant to paragraph 2 of subsection 127(1) of the Act;
- (c) the acquisition of any securities by the Respondent be prohibited permanently (other than acquisitions for the Respondent’s personal registered retirement savings plan, registered retirement income fund or registered disability savings plan account or for any registered education savings plan account of which the Respondent is a beneficiary or a sponsor), pursuant to paragraph 2.1 of subsection 127(1) of the Act;
- (d) any exemptions contained in Ontario securities law not apply to the Respondent permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;
- (e) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

- (f) the Respondent resign any positions that the Respondent holds as a director or officer of an issuer, registrant or investment fund manager pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;
- (g) the Respondent be permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;
- (h) the Respondent be permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (i) the Respondent pay \$350,000, by certified cheque prior to April 8, 2015, which amount shall be designated for allocation to or for the benefit of third parties or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act, pursuant to paragraphs 9 and 10 of subsection 127(1) of the Act; and
- (j) the Respondent pay costs in the amount of \$50,000, by certified cheque prior to April 8, 2015, pursuant to subsection 127.1(1) of the Act.

25. The Respondent undertakes to consent to a regulatory order made by any securities regulatory authority in Canada containing any or all of the orders set out in sub-paragraphs 24(b) through (i) above, as may be modified to reflect the provisions of the relevant provincial or territorial securities law.

26. The Respondent shall attend, in person, at the hearing before the Commission to consider this Settlement Agreement (the "Settlement Hearing").

PART VII – STAFF COMMITMENT

27. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against the Respondent in relation to the facts set out in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement, in which case:

- (a) Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, *inter alia*, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement; and
- (b) the Commission may bring any proceedings necessary or desirable to obtain the amounts set out in sub-paragraphs 24(i) and (j) above.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

28. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for April 8, 2015, or on another date agreed to by Staff and the Respondent, in accordance with this Settlement Agreement and the Commission's *Rules of Procedure* (2014), 37 O.S.C.B. 4168.

29. Staff and the Respondent confirm that this Settlement Agreement sets forth all of the agreed facts regarding the Respondent's conduct that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

30. If the Commission approves this Settlement Agreement:

- (a) the Respondent waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and
- (b) neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

31. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, 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, alleged unfairness or any other remedies or challenges that may be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

32. If the Commission does not approve this Settlement Agreement or does not make the Order:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing takes place will be without prejudice to Staff and the Respondent; and
- (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations set forth in the Statement of Allegations dated March 28, 2014 in respect of the Proceeding. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement or any discussions or negotiations relating to this Settlement Agreement.

33. Both parties shall keep the terms of this Settlement Agreement confidential until the Commission approves this Settlement Agreement. At that time, the parties' confidentiality obligations shall terminate. If the Commission does not approve this Settlement Agreement, both parties shall continue to keep the terms of this Settlement Agreement confidential, unless they agree in writing not to do so or unless otherwise required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

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

35. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto, Ontario as of *March 31*, 2015.

"Tamara Sadowska"

"Eric Inspektor"

Witness

Eric Inspektor

"Tom Atkinson"

Tom Atkinson
Director, Enforcement Branch
Ontario Securities Commission

SCHEDULE "A"



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

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IN THE MATTER OF ERIC INSPEKTOR

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IN THE MATTER OF A SETTLEMENT AGREEMENT BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION AND ERIC INSPEKTOR

ORDER

(Sections 127 and 127.1)

WHEREAS on March 28, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing dated March 28, 2014 (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider whether it is in the public interest to make orders, as specified therein, against and in respect of Eric Inspektor (the "Respondent"). The Notice of Hearing was issued in connection with the allegations set out in the Statement of Allegations of Staff of the Commission ("Staff") dated March 28, 2014 (the "Statement of Allegations");

AND WHEREAS the Respondent entered into a Settlement Agreement with Staff dated as of [month, day], 2015 (the "Settlement Agreement") in which the Respondent agreed to a proposed

settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

AND WHEREAS on [month, day], 2015, the Commission issued a Notice of Hearing pursuant to section 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND WHEREAS upon reviewing the Settlement Agreement, the Notice of Hearing and the Statement of Allegations, and upon hearing submissions of the Respondent and Staff, the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED that:

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by the Respondent cease permanently (other than trading for the Respondent's personal registered retirement savings plan, registered retirement income fund or registered disability savings plan account or for any registered education savings plan account of which the Respondent is a beneficiary or a sponsor), pursuant to paragraph 2 of subsection 127(1) of the Act;
3. the acquisition of any securities by the Respondent be prohibited permanently (other than acquisitions for the Respondent's personal registered retirement savings plan, registered retirement income fund or registered disability savings plan account or for any registered education savings plan account of which the Respondent is a beneficiary or a sponsor), pursuant to paragraph 2.1 of subsection 127(1) of the Act;
4. any exemptions contained in Ontario securities law not apply to the Respondent permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;
5. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
6. the Respondent resign any positions that the Respondent holds as a director or officer of an issuer, registrant or investment fund manager pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

7. the Respondent be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;

8. the Respondent be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

9. the Respondent pay \$350,000, by certified cheque on or before April 8, 2015, which amount shall be designated for allocation to or for the benefit of third parties or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act, pursuant to paragraphs 9 and 10 of subsection 127(1) of the Act; and

10. the Respondent pay costs in the amount of \$50,000, by certified cheque on or before April 8, 2015, pursuant to subsection 127.1(1) of the Act.

DATED at Toronto, Ontario this [day] of [month], 2015.

SCHEDULE "B"

SILOS

Silo	Date of Incorporation
CarCap Portfolio 1 Corp.	March 29, 2011
CarCap Portfolio Number Two Corp.	June 27, 2008
CarCap Portfolio Number Five Corp.	March 24, 2009
CarCap Portfolio Number Seven Corp.	August 10, 2009
CarCap Portfolio 8 Corp.	September 29, 2009
CarCap Portfolio 10 Corp.	January 7, 2010
CarCap Portfolio 11 Corp.	July 9, 2010
CarCap Portfolio 12 Corp.	July 9, 2010
CarCap Portfolio 14 Corp.	October 4, 2010
CarCap Portfolio 15 Corp.	November 24, 2010
CarCap Portfolio 16 Corp.	January 26, 2011
CarCap Portfolio 17 Corp.	February 28, 2011
CarCap Portfolio 18 Corp.	March 25, 2011
CarCap Rolling Fund 1 Corp.	November 18, 2010
KapCar Capital Corp.	April 20, 2010