



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

IN THE MATTER OF BDO CANADA LLP

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. As gatekeepers, auditors play an important role in investor protection because they contribute to public confidence in the integrity of financial reporting, a cornerstone of our capital markets. The framework for proper disclosure is undermined when they fail to adequately carry out their role.
2. Auditors must comply with generally accepted auditing standards when conducting audits. When auditing an investment fund in the exempt market, an auditor must understand the fund's portfolio, operations and service organizations to carry out its role. It is critical that the auditor obtain appropriate audit evidence to support its opinion, that it exercise appropriate professional skepticism and that its audit work be appropriately overseen.
3. The parties will jointly file a request that the Ontario Securities Commission (the "**Commission**") issue a Notice of Hearing to announce that it will hold a hearing (the "**Settlement Hearing**") to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the "**Act**"), it is in the public interest for the Commission to make certain orders against BDO Canada LLP (the "**Respondent**").

PART II - JOINT SETTLEMENT RECOMMENDATION

4. Staff (“**Staff**”) of the Commission recommend settlement of the proceeding (the “**Proceeding**”) against the Respondent commenced by the Notice of Hearing dated October 12, 2018, in accordance with the terms and conditions set out in Part V of this Agreement. The Respondent consents to the making of an order substantially in the form attached as Schedule A to this Agreement (the “**Order**”) based on the facts set out herein.

5. 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 of this Agreement and the conclusions in Part IV of this Agreement.

PART III - AGREED FACTS

A. OVERVIEW

6. Between 2005 and 2017, the Respondent was the auditor of Crystal Wealth Management Systems Limited (“**Crystal Wealth**”) and the investment funds managed by it at the time (the “**Crystal Wealth Funds**”). In April 2017, on application by the Commission, Crystal Wealth, the Crystal Wealth Funds and their directing mind, Clayton Smith (“**Smith**”), were put into receivership by the Ontario Superior Court of Justice. The Commission subsequently approved a settlement agreement between Smith and Staff in which Smith admitted to fraud on two Crystal Wealth Funds—Crystal Wealth Media Strategy (the “**Media Fund**”) and Crystal Wealth Mortgage Strategy (the “**Mortgage Fund**” and, together with the Media Fund, the “**Funds**” and each a “**Fund**”). Certain of the fraudulent investments were recorded in the Funds’ financial statements that were audited by the Respondent.

7. The Respondent audited the Funds’ financial statements as at and for the years ended December 31, 2014 and December 31, 2015. In those financial statements, the Media Fund and Mortgage Fund were valued at approximately \$50 million and \$40 million, respectively. In each of the four auditor’s reports accompanying those financial statements, the Respondent stated that it had performed its audit (each, an “**Audit**”) in accordance with Canadian generally accepted auditing standards (“**GAAS**”).

8. The Respondent did not meet GAAS in the conduct of the Audits in three principal ways. First, the Respondent did not obtain sufficient appropriate audit evidence of the existence and valuation of the Funds' assets. Second, the Respondent did not undertake its work with sufficient professional skepticism. Third, in issuing its audit opinions, the Respondent did not complete the engagement quality control reviews ("EQCRs") of the Audits that it had determined were required.

9. By stating in each auditor's report that it had conducted the Audit in accordance with GAAS, the Respondent breached subsection 122(1)(b) of the Act. In addition, each of the Respondent's breaches of GAAS violated subsection 78(3) of the Act.

B. BACKGROUND

10. The Funds were privately-offered mutual fund trusts managed by Crystal Wealth, a Burlington, Ontario-based corporation. Crystal Wealth also acted as the Funds' trustee, portfolio manager and promoter.

11. Smith was Crystal Wealth's founder, principal shareholder, directing mind and sole director and officer. He acted as Crystal Wealth's President, Chief Executive Officer, Chief Financial Officer and Chief Compliance Officer and was the Respondent's principal point of contact during the Audits.

12. The Respondent is a limited liability partnership, the head office of which is in Toronto, Ontario. It has more than 125 offices across Canada and is part of the international BDO network of independent member firms.

13. By 2005, the Respondent had been appointed auditor of Crystal Wealth and the Crystal Wealth Funds. The Respondent's Burlington, Ontario office conducted the audits of the Funds' 2014 and 2015 financial statements.

14. The Respondent was also engaged to audit the Funds' 2016 financial statements. At the time of those audits, the Respondent was aware of Staff's investigation in this matter. In the audits, the Respondent introduced new procedures, such as seeking additional evidence from sources independent of the Funds and Smith. The Respondent was not able to obtain the

additional evidence it determined was required to issue its auditor's reports. They were not issued by March 31, 2017, when the financial statements were due to be delivered to unitholders.

15. Thereafter, on April 6, 2017, on application by Staff, the Commission ordered that all trading in securities of the Crystal Wealth Funds cease. On April 26, 2017, on application by the Commission, the Ontario Superior Court of Justice appointed Grant Thornton Limited (the "**Receiver**") receiver and manager of the assets of the Crystal Wealth Funds, Crystal Wealth and Smith, personally.

16. On June 13, 2018, the Commission approved a settlement agreement between Staff and Smith. In the settlement agreement, Smith admitted to fraud relating to investments recorded in the Media Fund's 2014 and 2015 financial statements and the Mortgage Fund's 2015 financial statements.

C. DETAILED FACTS

17. Staff's allegations and the Respondent's admissions are restricted to compliance with auditing standards and do not address the accuracy of the Funds' financial statements. The Proceeding does not involve allegations of breaches of accounting standards by the Respondent, by Crystal Wealth, or by any other party.

(1) Generally Accepted Auditing Standards

18. As the basis for the auditor's opinion, GAAS require the auditor to obtain reasonable assurance about whether the financial statements are free from material misstatement. Reasonable assurance is a high, but not absolute, level of assurance. As stated in GAAS, the auditor is not expected to, and cannot, obtain absolute assurance that the financial statements are free from material misstatement due to fraud or error.

19. To obtain reasonable assurance, GAAS set out various standards to be met, requirements to be fulfilled and steps to be taken. They include obtaining sufficient appropriate audit evidence while exercising professional skepticism, as well as completing EQCRs as required by GAAS.

(a) Sufficient Appropriate Audit Evidence Required

20. To obtain reasonable assurance, the auditor must obtain sufficient appropriate audit evidence to reduce, to an acceptably low level, the risk of incorrectly opining on misstated financial statements.

The Need for Retrospective Reviews

21. To assess the risk of material misstatement in the current period, the auditor must perform a retrospective review of the outcomes of accounting estimates included in the prior financial statements. Among other things, retrospective reviews assist in assessing the likelihood that the current estimates may be misstated and in identifying any indications of management bias that might represent a risk of material misstatement due to fraud or error.

The Need for Independent Evidence

22. The higher the assessed risk of material misstatement, the more persuasive the required audit evidence. Generally, evidence from independent sources outside the audited entity is more reliable than evidence from the entity.

The Need for Assurance about Service Organization Controls

23. A service organization is a service provider whose services are part of the audited entity's financial reporting information systems. When an audited entity uses a service organization, transactions that affect its financial statements become subject to the service organization's controls. If the auditor obtains evidence from the service organization, the auditor cannot simply assume that the service organization's related controls operate effectively. It must obtain evidence about their effectiveness by testing the controls directly or performing alternative procedures considered necessary.

The Need to Address Inconsistencies and Obtain Sufficient Appropriate Audit Evidence

24. Determining what procedures are required to complete an audit is a dynamic process that must be responsive to any changes in the auditor's assessment of the risk of material misstatement. For example, if evidence from two sources is inconsistent, the auditor must determine what changes to its planned procedures are necessary to resolve the matter. If the

auditor cannot obtain sufficient appropriate evidence of a material item, the auditor must not provide an unmodified opinion on the financial statements.

The Need to Respond to Misstatements

25. If the auditor identifies a material misstatement, it must determine whether the misstatement is indicative of fraud or error. If it is, the auditor must evaluate the implications for the audit, including the reliability of management representations, recognizing that an instance of fraud is unlikely to be an isolated occurrence. If the auditor concludes that the financial statements are not free from material misstatement, the auditor must not provide an unmodified opinion on them.

The Need to Document the Audit

26. Audit documentation is the record of the audit procedures performed, relevant audit evidence obtained and conclusions reached. A principal purpose of audit documentation is to evidence that the audit was planned and performed in accordance with GAAS. The audit documentation must provide evidence of the auditor's basis for conclusions about critical matters such as whether the auditor has obtained reasonable assurance that the financial statements are free from material misstatement. The audit documentation for an engagement must be assembled in the audit file for that engagement.

(b) Professional Skepticism Required

27. The auditor must plan and perform its audit with professional skepticism, recognizing that circumstances may cause the financial statements to be materially misstated. Professional skepticism requires a questioning mind and a critical assessment of the audit evidence. It includes alertness to contradictory audit evidence, information that brings the reliability of documents into question and conditions that may indicate fraud, such as missing evidence.

(c) Engagement Quality Control Reviews Required

28. If the auditor determines that an EQCR is required, the EQCR must be performed before the auditor's report is completed. An EQCR is an objective evaluation of the engagement team's significant judgments and conclusions. The EQCR reviewer cannot be part of the engagement team.

(2) Non-Compliance with Generally Accepted Auditing Standards

29. The Respondent's Audits did not comply with GAAS due to a lack of sufficient appropriate audit evidence, professional skepticism, and appointing an EQCR reviewer.

(a) Lack of Sufficient Appropriate Audit Evidence

30. The Respondent did not obtain sufficient appropriate audit evidence of the existence and valuation of the significant assets recorded in the Media Fund's and the Mortgage Fund's 2014 and 2015 financial statements.

Media Fund

Background to the Fund

31. In the 2014 and 2015 financial statements, the Media Fund was valued at approximately \$50 million. The Fund primarily invested in asset-backed debt obligations ("**Loans**") of motion picture and series television productions. The Loans were to finance the production projects. In 2014 and 2015, approximately 25 Loans represented 85% of the Fund's assets.

32. Media House Capital (Canada) Corp. ("**MHC**") was retained by the Fund to conduct due diligence on potential Loan investments and present them to the Fund for purchase. If the Fund acquired a Loan, MHC was to manage and service it, including collecting principal and interest payments for the Fund. MHC received an upfront fee of up to 10% of the value of the Loans it sold to the Fund. The Fund purchased Loans from MHC on an ongoing basis.

The Respondent Did Not Adequately Address Existence of Loans

33. The Respondent did not obtain sufficient appropriate evidence of the existence of the Loans. Its planned procedures were to confirm all the Loans with MHC, whether they had been acquired in the current or previous years. In addition, the Respondent planned to review the "loan agreements" for Loans ("**New Loans**") purchased in the current year.

34. The Respondent did not adequately assess whether MHC was a service organization in the 2014 Audit and did not take other steps required by GAAS when service organizations are involved in either Audit. MHC was to record information about the Loans for the Fund, but the

Respondent did not obtain assurance about the controls relevant to the audit evidence provided by MHC.

35. In addition, there were three significant deficiencies in the “loan agreements” the Respondent obtained for the New Loans. First, they were not agreements between the borrower—the production company—and the lender—the Fund. Instead, the Respondent obtained two types of documents (“**Loan Documents**”): (a) purchase notices, each of which was a notice from the Fund to MHC that it wished to purchase a Loan; and (b) supplements, each of which evidenced MHC’s sale of a Loan to the Fund. The Loan Documents did not provide sufficient evidence of the borrowers’ obligations to the Fund.

36. Second, the Respondent did not obtain a complete set of Loan Documents for every New Loan. Purchase notices were unaccompanied by supplements and many of the supplements were only partially executed.

37. Third, even though information in many Loan Documents was inconsistent with other audit evidence, the Respondent did not enhance its procedures to properly resolve the discrepancies. For instance, various Loan Documents set forth principal amounts that differed from those in MHC’s confirmations. Yet in its Audits, the Respondent identified and performed procedures on few of the inconsistencies and, in one case, relied solely on information from Smith, rather than independent evidence.

38. The audit files also included a variety of Loan Documents and promissory notes for Loans purchased in previous years. There were deficiencies with this documentation. These deficiencies should have prompted the Respondent to perform further procedures.

The Respondent Did Not Adequately Address Valuation of Loans

39. The Respondent did not appropriately assess Smith’s valuation of the Loans.

40. The value of the Loans turned on the probability of collecting on them. That probability depended on the sales of the productions to be financed by the Loans. As a result, forecasts of those sales (“**Sales Forecasts**”) were critical to determining the value of the Loans. In the 2014

and 2015 Audits, the Respondent relied on Sales Forecasts that it stated had been confirmed by, or obtained from, MHC.

41. The Respondent's procedures for auditing Smith's Loan valuations and its responses to the results of those procedures did not comply with GAAS.

2014 Audit

42. In the 2014 Audit, the Respondent did not conduct the required retrospective review of Smith's 2013 Loan valuation and inappropriately relied on an analysis from the Respondent's valuations group.

43. First, because the Respondent did not conduct the required retrospective review of Smith's 2013 Loan valuation, it could not determine whether there was an increased risk of material misstatement due to fraud or error. The Respondent's audit documentation included a checklist (the "**Fraud Checklist**") to assist its engagement team in complying with the GAAS requirements concerning fraud. The Fraud Checklist required retrospective reviews of significant accounting estimates and a determination of whether differences between the estimates and the actual results indicated management bias. The Respondent completed the Fraud Checklist by stating that no retrospective reviews were necessary because there were no significant accounting estimates. Yet in other audit documentation, the Respondent recognized that the value of the Loans was a significant accounting estimate.

44. Second, in evaluating Smith's 2014 Loan valuation, the Respondent relied on an analysis from its valuations group. The valuations group's analysis was based on Sales Forecasts, the appropriateness and reliability of which were to be assessed with a confirmation from MHC. The audit file, however, contained no such confirmation of the Sales Forecasts.

2015 Audit

45. In the 2015 Audit, the Respondent failed to comply with GAAS in its retrospective review of Smith's 2014 Loan valuation and in its audit of Smith's 2015 Loan valuation.

Deficient Retrospective Review of Smith's 2014 Loan Valuation

46. The Respondent's retrospective review in the 2015 Audit was problematic because its procedures, and its response to the results of those procedures, were inadequate.

47. In its retrospective review, the Respondent compared Smith's 2014 forecast of expected receipts on the Loans with the amounts collected on the Loans in 2015 and early 2016. In determining the amounts collected in 2015, the Respondent relied on the Fund's accounting records. The Respondent did not corroborate the amounts collected with evidence such as bank records.

48. The results of the Respondent's analysis revealed that the 2014 forecast of receipts, when compared to amounts collected by early 2016, fell short by almost 80% or \$25 million.

49. The Respondent concluded that the shortfall appeared to be largely due to timing and noted that Smith was revising his current estimates. The Respondent did not adequately consider whether the shortfall represented a risk of material misstatement due to fraud or error in the 2015 financial statements it was auditing, particularly in light of the magnitude of the shortfall.

Deficient Audit of Smith's 2015 Loan Valuation

50. The Respondent's procedures relating to Smith's 2015 Loan valuation were deficient because of the steps that the Respondent took and because of the Respondent's response to the results. To evaluate Smith's 2015 Loan valuation, the Respondent developed its own Loan valuation.

51. Both the valuation of Smith and that of the Respondent depended on Sales Forecasts from MHC. The Respondent's procedures to determine the appropriateness of the Sales Forecasts were inadequate. They consisted of conducting the flawed retrospective review described above and obtaining oral representations from MHC, the organization that had provided the Sales Forecasts.

52. In the Respondent's Loan valuation, the Respondent came to a single estimate of the value of the Loans (the "Value") of \$47 million. To calculate the Value, the Respondent added

what it determined was the “most likely” value of each Loan to \$1.5 million in respect of a guarantee from MHC.

53. There were several issues with the Respondent’s calculation of the Value. First, the Respondent did not follow the methodology it stated it used to determine the “most likely” value of each Loan. Instead, in determining the “most likely” value of each Loan, the Respondent often arrived at values for the Loans that were greater than what had been recorded as owing on the Loans. The result was an inappropriate increase in the Value of \$1.4 million.

54. Additionally, the Respondent should not have included the amount of the guarantee in the Value. The guarantee consisted of a letter dated March 31, 2016, in which MHC stated that it would pay a “recoupable” \$1.5 million towards the Fund, for any losses above and beyond the Fund’s accrued loan-loss provisions. Aside from its “recoupable” nature, the guarantee was not in effect at the date of the financial statements. The result was a further, inappropriate increase in the Value of \$1.5 million.

55. Finally, although the Respondent planned to request an analysis from its valuations group to value the Loans, the Respondent finalized the Value without that analysis. According to the audit documentation, the valuations group’s analysis would be, and was, provided in report form. But there were no reports, or any other evidence of the valuations group’s steps, in the audit file.

56. The Value was approximately \$3 million less than Smith’s Loan value. The difference between the Value and Smith’s Loan value would have been twice the size—approximately \$6 million—had the Respondent not inappropriately increased the Value.

57. Two days before the date of its auditor’s report, the Respondent sent Smith an interim, working copy of its Loan valuation. In the covering email, the Respondent wrote: “The numbers may not make sense at the moment but I’m hoping we can clarify a few things/I can let you know our thought process and we can meet somewhere in the middle.”

58. The \$3 million was ultimately disclosed in a note to the financial statements as a “potential change” in Smith’s Loan value, and Smith’s Loan value appeared in the body of the financial statements. The Respondent should have taken steps to identify the reason for the

difference between the Value and Smith's Loan value and to determine whether the difference was due to fraud or error.

Mortgage Fund

Background to the Fund

59. In the 2014 and 2015 financial statements, the recorded value of the Mortgage Fund was \$40 million and \$44 million, respectively. The Fund primarily invested in residential mortgages in Canada. In 2014 and 2015, the Fund held over 300 residential mortgages constituting 83% and 63% of its assets, respectively. The Fund also held commercial mortgages and commercial loans. In connection with its investments, the Fund engaged several service providers.

60. Spectrum-Canada Capital (2002) Corporation and Spectrum-Canada Mortgage Services Inc. (collectively, "**Spectrum**") was the principal seller of residential mortgages to the Fund. Like MHC, Spectrum was to evaluate investments in accordance with due diligence guidelines and present them to the Fund for potential purchase. Once the Fund purchased a mortgage from Spectrum, Spectrum managed and serviced it. Among other things, Spectrum held a bank account for mortgage payments and provided reports on which the Fund's records were based. Spectrum's fees were based on the Fund's outstanding advances on the mortgages. The Fund purchased mortgages from Spectrum on an ongoing basis.

61. Other of the Fund's residential mortgages were administered by Squire Management Inc. ("**Squire**"). Like Spectrum, Squire held a bank account into which mortgage payments were deposited and sent Smith weekly reports summarizing all mortgages and payments.

62. Liberty Mortgage Services Ltd. ("**Liberty**") dealt with the Fund's commercial mortgages. Like Spectrum, Liberty sold the Fund mortgages it held that met the Fund's criteria. The Fund recorded the mortgages in its books based on Liberty's weekly reports.

The Respondent Did Not Adequately Address Existence of Mortgages

63. The Respondent did not obtain sufficient appropriate evidence of the existence of the mortgages. In performing its procedures, the Respondent relied on audit evidence from Spectrum, Squire and Liberty (collectively, the "**Service Providers**") and failed to properly test the audit evidence it obtained.

64. In the 2014 Audit, the Respondent did not adequately evaluate Spectrum as a service organization and in neither audit, took other steps required by GAAS when service organizations are involved.

65. The Service Providers were to note information about the Fund's mortgage loans in the records they maintained for the Fund, but the Respondent did not obtain assurance about the controls related to the audit evidence provided by the Service Providers.

66. The Respondent's approach to testing the new mortgages was inadequate at both the sampling and testing stages.

67. To start, in sampling the new residential mortgages to be tested in its 2014 Audit, the Respondent assessed overall risk as "low/normal" because Spectrum administered the mortgages. In making this assessment, the Respondent did not explain why Spectrum's involvement reduced the risk. The lower risk assessment resulted in a smaller sample size and thus less reliable test results.

68. To test the selected mortgages, in each Audit, the Respondent stated that it had compared information in a listing of new mortgages provided by Smith against information in mortgage files. However, the Respondent's documentation of its review of the mortgage files was deficient. The audit files did not provide sufficient evidence that the Respondent performed procedures to confirm key mortgage details such as property location, term and interest rate.

69. Last, in the 2014 audit file, Smith's listing of initial loan amounts differed from the information in Spectrum's confirmation. The Respondent neither identified the discrepancies nor performed procedures to reconcile them.

The Respondent Did Not Adequately Address Valuation of Mortgages and Commercial Loans

70. The Respondent's audits of Smith's valuations of the Fund's mortgages and commercial loans were also inadequate.

Deficient Audit of Smith's Mortgage Valuation

71. The Respondent's mortgage valuation work was deficient with respect to retrospective reviews and obtaining sufficient appropriate audit evidence.

72. In its 2014 Audit, the Respondent did not perform a retrospective review on the accrued loss provision on the mortgages—an essential component in their value. Without this review, the Respondent could not assess whether there was a heightened risk of material misstatement due to fraud or error. On the Fraud Checklist that required this analysis, the Respondent indicated that no retrospective review was required because there were no significant accounting estimates. Yet in other audit documentation, the Respondent recognized that the accrued loss provision on the mortgages was a significant accounting estimate.

73. In addition, the Respondent did not obtain the evidence required to verify Smith's estimated accrued loss provision in either Audit. To start, the Respondent relied on evidence from the Service Providers, despite not having adequately considered the reliability of this evidence. Further, in the 2014 Audit, to determine which commercial mortgages were in arrears, the Respondent relied solely on Smith. The Respondent did not corroborate the completeness of Smith's listing of mortgages in arrears with independent evidence.

Deficient Audit of Smith's Commercial Loan Valuation

74. The Respondent's audit work on Smith's 2015 commercial loan valuation was also deficient.

75. To audit Smith's 2015 valuation, the Respondent developed its own valuation. The Respondent's valuation did not consider the probability of collecting on the commercial loans held by the Mortgage Fund. For example, one of the commercial loans was a Loan on a media production that the Mortgage Fund had acquired from MHC. The Respondent did not consider Sales Forecasts in valuing that Loan, even though the Respondent had determined in its Media Fund Audits that Sales Forecasts were critical to the Loan valuation.

76. In its working papers, the Respondent indicated that there was a memorandum explaining its methodology for valuing the commercial loans. But there was no such memorandum or other explanation of the Respondent's approach to valuing the commercial loans in the audit file.

77. Because of all the admissions described above, the Respondent's Audits of the Mortgage Fund's 2014 and 2015 financial statements did not comply with GAAS.

(b) Insufficient Professional Skepticism

78. The Respondent did not conduct its Audits with sufficient professional skepticism. In some instances, the Respondent did not take proper account of contradictory audit evidence and other circumstances which should have caused it to treat Smith's representations with greater caution, obtain additional evidence from independent sources and perform additional procedures on that evidence.

(c) Lack of Engagement Quality Control Reviews

79. The Respondent did not complete EQCRs on any of the Audits, even though it had determined that they were required. Although the Respondent indicated in its audit documentation for each of the Audits that one of its partners had acted as EQCR reviewer, that partner could not conduct an EQCR under GAAS because he was a member of the engagement team. Other documentation in each audit file confirmed that no EQCR had been completed.

D. MITIGATING FACTORS

80. Staff do not allege dishonest conduct or intentional misconduct by the Respondent.

81. Since 2015, in addition to its continuous efforts to improve its audit policies and procedures, the Respondent has taken a number of steps to ensure adherence to those policies and procedures to address and prevent re-occurrences of conduct such as that at issue in the Proceeding. Those steps include:

- (a) requiring discussions of audit approaches between the National Assurance Team and audit partners on mortgage investment corporation or investment fund audits;
- (b) enhancing the Respondent's review of file risk ratings on audits of entities that raise capital from accredited investors;

- (c) requiring discussions of planned audit approaches for investment fund audits between the National Assurance Standards Partners and Burlington-based personnel;
- (d) mandating a consultation with valuation experts where significant accounting estimates have been identified, including on whether to involve a valuation expert in the audit;
- (e) introducing national training on the audit work required in identifying and relying upon the work of service organizations;
- (f) mandating consultations by audit engagement teams with the Respondent's technical leaders in certain situations involving service organizations; and
- (g) mandating financial statement reviews by independent technical leaders on all moderate and high-risk audit/review engagements and certain low risk engagements involving transactions that are potentially higher risk.

PART IV - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

82. The Respondent acknowledges and admits that:

- (a) each of the Respondent's statements in its auditor's reports that the relevant Audit had been conducted in accordance with GAAS was contrary to subsection 122(1)(b) of the Act;
- (b) each of the Respondent's failures to comply with GAAS in auditing the Funds' 2014 and 2015 financial statements constituted a breach of subsection 78(3) of the Act; and
- (c) as set out in sub-paragraphs (a) and (b), the Respondent engaged in conduct contrary to the public interest.

PART V - TERMS OF SETTLEMENT

83. The Respondent agrees to the terms of settlement set forth below.

84. The Respondent consents to the Order, pursuant to which it is ordered that:
- (a) this Agreement be approved;
 - (b) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (c) the Respondent pay an administrative penalty in the amount of \$3,500,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;
 - (d) the Respondent pay costs in the amount of \$500,000, pursuant to section 127.1 of the Act; and
 - (e) the amounts set out in sub-paragraphs (c) and (d) be paid by wire transfer prior to the issuance of the Order.

85. Upon court approval of the settlement between BDO and the Receiver, Staff will recommend to the Commission that \$2,500,000 of the \$3,500,000 specified in paragraph 84(c) be allocated or used for the benefit of unitholders of the Crystal Wealth Funds in accordance with subsection 3.4(2)(b)(i) of the Act. Such amounts are to go to the unitholders, without any deduction for legal fees or expenses, including any expenses related to the distribution of the amounts.

PART VI - FURTHER PROCEEDINGS

86. If the Commission approves this Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Agreement, unless the Respondent fails to comply with any term in this Agreement (any such failure, a “**Breach**”). If a Breach occurs, Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Agreement as well as the Breach.

87. The Respondent waives any defences to a proceeding referenced in paragraph 86 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last Breach.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

88. The parties will seek approval of this Agreement at the Settlement Hearing, which will be held on a date determined by the Secretary to the Commission in accordance with this Agreement and the Commission's *Rules of Procedure* (2019), 42 OSCB 9714.

89. The Respondent's National Risk Management Partner, on behalf of the Respondent, will attend the Settlement Hearing in person.

90. The parties confirm that this Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

91. If the Commission approves this Agreement:

- (a) the Respondent irrevocably 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 Agreement or with any additional agreed facts submitted at the Settlement Hearing.

92. Whether or not the Commission approves this Agreement, the Respondent will not use, in any proceeding, this Agreement or the negotiation or process of approval of this 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 VIII - DISCLOSURE OF AGREEMENT

93. If the Commission does not make the Order:

- (a) this Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing 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 on the merits of the allegations contained in the Amended Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Agreement, or by any discussions or negotiations relating to this Agreement.

94. The parties will keep the terms of this Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART IX - EXECUTION OF AGREEMENT

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

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

[The remainder of this page is intentionally left blank.]

DATED at Toronto, Ontario, as of the 20th day of January, 2020.

BDO CANADA LLP

By: ***“David Simkins”***
Name: David Simkins
Title: Chief Operating Officer
I have the authority to bind the partnership.

DATED at Toronto, Ontario, as of the 20th day of January, 2020.

ONTARIO SECURITIES COMMISSION

By: ***“Jeff Kehoe”***
Name: Jeff Kehoe
Title: Director, Enforcement Branch

SCHEDULE A
FORM OF ORDER



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

IN THE MATTER OF
BDO CANADA LLP

FILE NO.: 2018-59

[Name(s) of Commissioner(s) comprising the Panel]

[Day and date order made]

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

WHEREAS on **[date]**, 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 Joint Request for a Settlement Hearing filed by BDO Canada LLP (the **Respondent**) and Staff of the Commission for approval of a settlement agreement dated as of **[date]** (the **Agreement**);

ON READING the Amended Statement of Allegations dated September 16, 2019 and the Agreement and on hearing the submissions of the representatives for the parties, including that the Commission has received \$4.0 million in respect of the amounts ordered in paragraphs 3 and 4 below;

IT IS ORDERED THAT:

1. the Agreement is approved;
2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

3. the Respondent pay an administrative penalty in the amount of \$3,500,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

4. the Respondent pay costs in the amount of \$500,000, pursuant to section 127.1 of the Act.

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[Name of Panel Chair]

•

[Name of Commissioner]

•

[Name of Commissioner]