IN THE MATTER OF THE SECURITIES ACT,
R.S.O. 1990, c. S.5, as amended

- AND -

IN THE MATTER OF
MARK KASSIRER

STATEMENT OF ALLEGATIONS OF STAFF OF THE ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

PHOENIX RESEARCH AND TRADING CORPORATION

1. Phoenix Research and Trading Corporation ("Phoenix Canada") is a company incorporated pursuant to the laws of Ontario. During the material time, Phoenix Canada was registered with the Ontario Securities Commission (the "Commission") as an investment counsel and portfolio manager pursuant to the *Securities Act*, R.S.O. 1990, c. S.5 (the "Act"). Phoenix Canada's registration was voluntarily suspended in May 2000 due to its inability to file audited financial statements and maintain insurance.

2. Phoenix Canada was a small company of approximately 14 employees. The respondent Mark Kassirer ("Kassirer") was the Chair of Phoenix Canada. During the material time, Kassirer was not registered with the Commission.

3. Ronald Mock ("Mock") was the CEO and President of Phoenix Canada. During the material time, Mock was registered with the Commission as an investment counsel and portfolio manager pursuant to the Act. Mock also was the company's registered supervisory procedures officer.

4. Blair Taylor ("Taylor") is a chartered accountant. From July 1997 to October 1999, Taylor was Phoenix Canada's Director of Operations and Finance. In November 1999, he was appointed the CFO. Taylor never was a registered officer of Phoenix Canada.

5. During the material time, Stephen Duthie ("Duthie") was a senior fixed income advisor and trader with Phoenix Canada. Duthie has never been registered with the Commission in any capacity.

THE PHOENIX GROUP

6. Phoenix Canada formed part of the Phoenix Group of companies and limited partnerships. Unitholders invested in the Phoenix Fund Limited, the Phoenix Fixed Income Arbitrage Fund Limited and the Phoenix Alternative Strategies Fund Limited (collectively, the

"Feeder Funds"). The Feeder Funds (and other investors) invested in units of the Phoenix Fixed Income Arbitrage Limited Partnership ("PFIA LP") and the Phoenix Equity Arbitrage Limited Partnership ("PEA LP").

7. The Phoenix Hedge Fund Limited Partnership, a TSE-listed hedge fund, also held units of PFIA LP and PEA LP.

8. Pursuant to a services agreement with Phoenix Research and Trading (Bermuda) Limited ("Phoenix Bermuda"), Phoenix Canada provided investment advisory and portfolio management services to the Feeder Funds, PEA LP and PFIA LP.

9. Kassirer headed the equity arbitrage business of Phoenix Canada. Mock was in charge of Phoenix Canada's fixed income arbitrage business.

PFIA LP

10. PFIA LP was a hedge fund managed by Phoenix Canada. Its investment objective was to maximize returns by pursuing professionally-managed fixed income market neutral and arbitrage investment trading strategies. These types of trading strategies are designed to reduce exposure to market direction.

11. Mock ran PFIA LP. In connection with this aspect of Phoenix Canada's fixed income arbitrage business, Mock's staff comprised 9 employees namely the Operations Group (Taylor, the Operations Manager and the Settlement Clerk), three fixed income advisors and traders (including Duthie), the Research and Risk Manager, the Systems Support Manager and an administrative assistant.

12. No one at Phoenix Canada involved in PFIA LP reported directly to Kassirer.

OVERVIEW

13. In early January 2000, PFIA LP collapsed when it sustained a loss in excess of $120 million. By this time, Duthie had accumulated a $3.3 billion U.S. long position in 6% U.S. treasury notes due August 15, 2009 (the "UST Notes"). The UST Notes were not hedged. The concentration, size and length of time this unhedged position was in place contravened PFIA LP's investment guidelines. The UST Notes caused PFIA LP's collapse.

14. Duthie was authorized to engage in a matched book strategy of repurchase agreements ("repos") and open reverse repos. Phoenix Canada management operated on the basis that the UST Notes were the open reverse repo leg of the matched book and thus, fell within PFIA LP's investment parameters.

15. In reality, Duthie engaged in a strategy of purchasing long bonds financed by repos. Ultimately, the UST Notes caused a significant overdraft position (in excess of $50 million) at the Bank of New York. As a result, Phoenix Canada was forced to liquidate all of PFIA LP's assets.

THE ACQUISITION OF THE UST NOTES BY PFIA LP

16. PFIA LP held investments in U.S. dollars, Canadian dollars and Euros.

17. From the Fall of 1998 through early January 2000, Duthie was responsible for PFIA LP's U.S. dollar portfolio under the direct supervision of Mock. In the course of trading such portfolio, Duthie exercised discretion as to the specific fixed income securities he bought and sold on behalf of PFIA LP. This discretion was subject to PFIA LP's investment guidelines and restrictions.

18. Duthie was authorized to engage in a low risk, matched book trading strategy of repos and open reverse repos in U.S. treasury benchmark issues. The goal of such a strategy is to eliminate the risk of market fluctuations inherent in bond trading. In this type of strategy, the trader plays the interest rate spread between the borrowing rate (repo leg) and the lending rate (open reverse repo leg).

19. On the repo leg of the transaction, monies are borrowed on the collateral of bonds. On the termination of the repo, the borrowed monies plus interest are paid in exchange for the return of the bonds. Simultaneously, on the open reverse repo leg of the transaction, monies are lent on the collateral of bonds. On the termination of the open reverse repo, the lent monies are repaid with interest and the bonds are returned. Profits are generated on this type of matched book strategy when the interest earned on the open reverse repo leg exceeds the interest expense paid on the repo leg, net of transaction costs.

20. Duthie did not engage in the authorized trading strategy. Rather, Duthie accumulated the UST Notes. He financed the leveraged position using repos. By trading the unhedged long bonds, PFIA LP was exposed to market risk which was magnified by the leverage of the UST Notes.

MANAGEMENT'S FAILURE TO DETECT THE UST NOTES

21. Management relied on Duthie's representations that the UST Notes (and other long bonds reported during the material time) were open reverse repos (the "purported open reverse repos") and thus, part of Duthie's authorized trading strategy (the open reverse repo leg of the matched book).

22. The purported open reverse repo transactions fell outside the scope of controls and procedures then in place at Phoenix Canada. Phoenix Canada failed to:

(i) establish, implement and monitor appropriate controls and procedures respecting the purported open reverse repo transactions;

(ii) maintain the books and records necessary for the proper recording of the purported open reverse repo transactions; and

(iii) segregate duties relating to the purported open reverse repo transactions.

As a result of these failures, the true nature of the UST Notes was not detected by management.

(a) Trade Capture of the Purported Open Reverse Repos

23. Phoenix Canada's method of capturing Duthie's trades in the purported open reverse repos was fundamentally flawed. Phoenix Canada's computer trading system ("Alydia") was not designed to record open repos or open reverse repos. Thus, all trades by Duthie in the purported open reverse repos were entered into the bond module of Alydia. Phoenix Canada then made two manual adjustments namely:

(i) A manual adjustment to "correct" PFIA LP's value at risk ("VAR") report program so that the VAR would be meaningful; and

(ii) A manual adjustment to "correct" income from the bond position which would be reflected in the general ledger and profit and loss statement. Duthie provided the information used to make this adjustment.

(b) Phoenix Canada's VAR Reports

24. The Risk Manager of Phoenix Canada prepared, on a daily basis, a VAR report. The VAR reports were Phoenix Canada's primary risk monitoring and management tool to ensure that investments were within the limits prescribed by PFIA LP.

25. The information used to create the VAR report was pulled from the information inputted to Alydia. Since the purported open reverse repos had been entered incorrectly in Alydia as long bonds, Phoenix Canada adjusted the VAR report program so that the purported open reverse repos were treated as short term long bonds and their risk assessed accordingly.

26. The adjustments to the VAR reports were unreliable because they were based solely on Duthie's representations as to the existence of the purported open reverse repos and the length of time such repos would be held. Phoenix Canada did not request, nor maintain, any documentation of the original trades of the purported open reverse repos to support or verify Duthie's representations.

(c) Inappropriate "Pricing" of the Purported Open Reverse Repos

27. In the normal course, bond trades entered into the bond module of Alydia were priced by Phoenix Canada (using Bloomberg or another similar service) on a daily basis to generate a daily capital gain/loss. The daily capital gains/losses were reflected in the general ledger. The profit and loss statement reported a net income/loss figure for each strategy.

28. Since there is no bond inventory associated with an open reverse repo, however, there was nothing to "price". Rather, the purported open reverse repos would earn income which ought to be recorded.

29. Phoenix Canada dealt with the purported open reverse repos based on Duthie's representations as follows: Duthie identified those bonds entered into the bond module which were the purported open reverse repos. He assigned a "price" to the purported open reverse repos which would produce a capital gain figure on the general ledger equal to what he said was the interest earned on the purported open reverse repos. Phoenix Canada never reallocated the "capital gain" figure to interest income.

30. This method of dealing with the purported interest income earned on the purported open reverse repos was fundamentally flawed. Further, since Phoenix Canada did not maintain or retain any documentation respecting the existence of the purported open reverse repos or the basis for Duthie's calculation of the adjusted "price", it had nothing against which to check these transactions.

(d) Segregation of Duties

31. Phoenix Canada failed to segregate duties relating to the purported open reverse repo transactions by:

(i) relying solely on the representations of Duthie to allocate PFIA LP's U.S. bond inventory between long bonds and the purported open reverse repos;

(ii) permitting Duthie to execute trades on behalf of PFIA LP respecting the purported open reverse repos and make the "pricing' adjustment; and

(iii) permitting Duthie to access collateral by virtue of his participation in cash management activities while engaged in his own profit and loss activities (enabling Duthie to satisfy transaction costs for the UST Notes).

(e) Books and Records

32. Phoenix Canada did not maintain any books and records of the original trades of the purported open reverse repos.

33. Internal reports generated from the inadequate trade capture and accounting of the purported open reverse repos such as daily trade blotters, collateral reports, settlement reports, general ledger and trial balances were flawed and unreliable. Further, the Operations Manager and Settlement Clerk who used these reports were unaware that the long bonds listed on the reports were a proxy for the purported open reverse repos.

INCORRECT REPORTING

34. Phoenix Canada reported incorrect information respecting the purported open reverse repos to the Bank of Bermuda, Phoenix Bermuda and the beneficial owners of PFIA LP. Phoenix Canada consistently reported the purported open reverse repos as long bonds.

35. Further, Phoenix Canada never informed the Bank of Bermuda that PFIA LP was engaged in a matched book trading strategy of repos and open reverse repos and that the long bond position was a proxy for the purported open reverse repos.

SUITABILITY

36. The accumulation of the UST Notes contravened PFIA LP's investment objectives and restrictions and thus, the Notes were not a suitable investment for PFIA LP.

KASSIRER'S MISCONDUCT

37. As the Chair of Phoenix Canada, Kassirer failed to supervise adequately and provide sufficient general oversight of Phoenix Canada's conduct respecting the UST Notes, the purported open reverse repo transactions and Duthie's activities.

38. In particular, Kassirer failed to monitor adequately the overall business of Phoenix Canada, including its risk controls. Among other things, Kassirer did not make appropriate and adequate inquires of other Phoenix Canada management and staff respecting the VAR report and the adjustments made to that report to reflect Duthie's activities.

39. By the end of 1999, PFIA LP's U.S. dollar portfolio was invested entirely in the purported open reverse repos. Given the concentration in, and the size and significance of, Duthie's portfolio, Kassirer failed to make sufficient efforts to understand the true nature of Duthie's activities.

40. Kassirer's conduct was contrary to the public interest.

41. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may allow.

DATE: June 13, 2002