



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 RONALD JAMES OVENDEN, NEW SOLUTIONS CAPITAL  
INC., NEW SOLUTIONS FINANCIAL CORPORATION AND NEW SOLUTIONS  
FINANCIAL (II) CORPORATION**

**STATEMENT OF ALLEGATIONS  
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

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

**Ovenden and the New Solutions Companies**

**Ovenden**

1. Ronald James Ovenden (“Ovenden”) is 57 years old and a resident of Georgetown, Ontario. Ovenden was registered with the Commission in various capacities throughout the relevant period, January 1, 2009 to January 5, 2012 (the “Relevant Period”). As of January 19, 2009, Ovenden was registered as a trading officer, and approved as a designated compliance officer and director of New Solutions Capital Inc. (“NSCI”). On September 28, 2009, with the implementation of National Instrument 31-103 - Registration Requirements, Exemptions and Ongoing Registrant Obligations (“NI 31-103”), the trading officer category was changed to dealing representative and officer, the designated compliance officer approval category was

removed, and NSCI's registration category of limited market dealer ("LMD") was changed to exempt market dealer ("EMD").

2. Ovenden was registered as the ultimate designated person ("UDP") and chief compliance officer ("CCO") of NSCI on March 4, 2010. Ovenden's CCO category of registration was surrendered on October 13, 2010. On October 18, 2010, Ovenden's registration as a dealing representative was surrendered because he did not meet the new proficiency requirements under NI 31-103. Ovenden remained with NSCI as an officer, director and registered UDP until April 26, 2012, when his registration was suspended.

3. Ovenden was the sole director and officer of each of NSCI, New Solutions Financial Corporation ("NSFC") and New Solutions Financial (II) Corporation ("NSFII") (collectively the "New Solutions Companies") during the Relevant Period.

4. Throughout the Relevant Period, Ovenden was the sole directing and controlling mind of each of the New Solutions Companies.

#### **New Solutions Capital Inc.**

5. NSCI is an Ontario corporation, and was registered as an LMD from June 14, 2006 until January 1, 2009, when its registration was suspended for non-payment of annual participation fees. NSCI's registration as an LMD was reinstated on January 19, 2009. On September 28, 2009, NSCI's LMD registration category was changed to EMD with the implementation of NI 31-103. NSCI's registration was suspended on April 26, 2012.

6. NSCI traded in debentures issued by NSFII.

#### **New Solutions Financial (II) Corporation**

7. NSFII was incorporated federally and has never been registered with the Commission. NSFII was not a reporting issuer in Ontario during the Relevant Period.

8. NSFII issued debentures to investors throughout Canada.

#### **New Solutions Financial Corporation**

9. NSFC was incorporated in Ontario and has never been registered with the Commission.

10. NSFC managed and administered NSFII. NSFII advanced funds raised from investors who purchased NSFII debentures to NSFC. NSFC in turn advanced the funds to persons and companies in the form of factored receivables and loans.

#### **Trades in NSFII Debentures to Investors**

11. During the Relevant Period, Ovenden and the New Solutions Companies made approximately 190 trades in debentures of NSFII to new and existing investors with a value of approximately \$25,000,000.00.

#### **Misrepresentations and Omissions**

12. Through interactions with investors and potential investors, and documents provided to them, referred to below, Ovenden, NSCI, NSFC and NSFII misled and/or failed to properly inform investors and potential investors about the true state of affairs of NSFC and its underlying portfolio, and the risks associated with investing in NSFII debentures.

13. Ovenden, NSCI, NSFC and NSFII also failed to properly inform investors and potential investors that their funds would be loaned to companies owned and/or controlled directly or indirectly by Ovenden, to Ovenden's associates, friends and/or family members and/or to companies owned and/or controlled directly or indirectly by Ovenden's associates, friends and/or family members.

#### **(a) Promotional Materials and Offering Memoranda**

14. During the Relevant Period, investors and potential investors were variously provided with:

- NSFC Semi-Annual Reports dated February 2009, August 2009, February 2010, Summer 2010 and Winter 2011;

- a brochure entitled "New Solutions Financial (II) Corporation 1-Year, 3-Year, 5-Year Non-Redeemable, Non-Convertible Secured Term Debentures" (the "Debentures Brochure");

- a brochure entitled "Top 5 Questions for New Solutions Financial (II) Corporation Secured Term Debentures" (the "Top 5 Brochure");

- a brochure entitled "A Conservative Entrepreneurial Investment" (the "Conservative Brochure");

- an NSFII offering memorandum dated December 15, 2008 (the “2008 OM”); and
- an NSFII offering memorandum dated August 10, 2010 (the “2010 OM”).

**(b) Risks Associated with Investment**

15. The February 2009 Semi-Annual Report was co-signed by Ovenden as Chair and Chief Executive Officer of NSFC. It stated that NSFC offered “**safe above market returns** to [its] investors” with the objective of maximizing returns “while maintaining an acceptable risk profile in all the lending transactions [it] become[s] involved in.” The same report also provided that “the **success of [its] borrowers** continue[s] to be the prime factors in [its] success.”

16. The brochures included claims that:

- the investments were “**[b]acked by a portfolio of managed receivables from companies with deemed “A” credit ratings or better**” and offered “safety of investment from: [d]iversification of [the] underlying borrower pool” (Debentures Brochure);
- “[d]iversification of [an] “**A” rated or better quality accounts receivable pool**” (Debentures Brochure);
- “[NSFC]...will use proceeds to lend/factor against “**A” rated or better**<sup>1</sup> accounts receivables owed to borrowing merchants” (Top 5 Brochure);
- “An Investment in New Solutions Financial Corporation Debentures Provides Access to:...**[c]onservative structure and historical surplus security**” (Conservative Brochure); and
- “A stringent approach to asset based lending provides an investor **an acceptable low-risk way to generate returns.**” (Conservative Brochure).

17. Contrary to the statements referred to above, NSFC provided bridge loans, asset-based financing services and other credit facilities to high risk entities.

**(c) Loans to Ovenden’s Companies, His Associates’ Companies and Others**

18. While the 2008 and 2010 OMs each contained a section entitled “Risk Factors,” neither disclosed that a substantial portion of the total dollar amount of outstanding loans were made to companies owned and/or controlled directly or indirectly by Ovenden, to Ovenden's associates,

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<sup>1</sup> Emphasis in original. All other emphasis added in this part (b).

friends and/or family members and/or to companies owned and/or controlled directly or indirectly by Ovenden's associates, friends and/or family members.

19. Ovenden co-signed a certificate dated December 15, 2008 by which he certified that the 2008 OM did not contain a misrepresentation. Ovenden signed a certificate dated August 10, 2010 by which he certified that the 2010 OM did not contain a misrepresentation.

20. As at June 30, 2009, at least 34% of the outstanding advances made by NSFC were to companies owned and/or controlled directly or indirectly by Ovenden. In addition, during the same period, at least 24% of the outstanding advances made by NSFC were to Ovenden's associates, friends and/or family members and/or to companies owned and/or controlled directly or indirectly by Ovenden's associates, friends and/or family members.

**(d) Quality of Loans**

21. Each of the Semi-Annual Reports contained a statement that for each dollar of investment, a specified amount was held in security value. In the Semi-Annual Reports during the Relevant Period, the purported security values ranged from \$1.81 to \$2.20 for each dollar of investment.

22. During the course of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") proceeding described below, after the sale of the most valuable asset, as at January 2013, gross realizations on the security were only \$0.08 per \$1.00.

**Proceeding under the *Companies' Creditors Arrangement Act***

23. On application made by NSFC, NSFII, New Solutions Financial (III) Corporation, New Solutions Financial (VI) Corporation and 2055596 Ontario Limited (the "Companies"), pursuant to the CCAA, the Ontario Superior Court of Justice issued an order (the "CCAA Order") on April 11, 2012 granting protection to the Companies. The CCAA Order was subsequently extended on May 7, 2012, July 31, 2012, October 4, 2012, November 29, 2012, December 6, 2012 and January 25, 2013. Under the CCAA Order, MNP Ltd. was appointed as monitor for the Companies to monitor the business and financial affairs of the Companies. The CCAA proceeding is ongoing.

**Conduct Contrary to Subsection 44(2) and Section 129.2 of the *Securities Act*, Section 2.1 of OSC Rule 31-505 and Contrary to the Public Interest**

24. In the manner described above, Ovenden and NSCI made untrue statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship and/or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made. As such, during the Relevant Period, Ovenden and NSCI breached subsection 44(2) of the *Securities Act*.

25. Further, Ovenden and NSCI breached section 2.1 of OSC Rule 31-505 - Conditions of Registration by failing to deal fairly, honestly and in good faith with their clients during the Relevant Period.

26. In his role as director and officer of NSCI, Ovenden authorized, permitted or acquiesced in the non-compliance of NSCI with Ontario securities law and, accordingly, failed to comply with Ontario securities law contrary to section 129.2 of the *Securities Act*.

27. Ovenden, NSCI, NSFC and NSFII engaged in conduct contrary to the public interest during the Relevant Period.

28. Staff reserve the right to amend these allegations and to make such further allegations as they deem fit and the Commission may permit.

DATED at Toronto this 28<sup>th</sup> day of March 2013.