

**ONTARIO SECURITIES COMMISSION**

**IN THE MATTER OF AN APPLICATION FOR A HEARING AND REVIEW OF  
THE DECISION OF DIRECTOR BRIDGE OF THE ONTARIO SECURITIES  
COMMISSION, PURSUANT TO SECTION 8 (2) OF THE *SECURITIES ACT*  
ONTARIO, R.S.O. 1990, c. S. 5, s. 8 (2)**

**- AND -**

**IN THE MATTER OF THE APPLICATION FOR REACTIVATION OF  
SANJIV SAWH and VLAD TRKULJA**

**NOTICE OF REQUEST FOR A HEARING AND REVIEW**

**TAKE NOTICE THAT** Sanjiv Sawh (“Sawh”) and Vlad Trkulja (“Trkulja”), requests a hearing and review by the Ontario Securities Commission (the “Commission”), pursuant to s. 8 (2) of the Ontario *Securities Act*, of the Decision and Reasons of Director Bridge of the Ontario Securities Commission in an Opportunity to be Heard under s. 31 of the *Securities Act* dated January 25, 2011, denying the reinstatement of registration of each of Sawh and Trkulja (collectively, the “Applicants”).

**THE APPLICANTS RESPECTFULLY REQUEST:**

1. An Order setting aside the Decision and Reasons of Director Bridge dated January 25, 2011 (the “Decision”) and substituting the decision of the Commission respecting the reinstatement of registration of the Applicants;
2. In the alternative, an Order setting aside the Decision and remitting the matter for a hearing *de novo* before a newly constituted panel of the Commission; and

3. Such further and other relief as counsel may request and this Honourable Commission deem just.

**THE GROUNDS FOR REQUEST ARE:**

1. By way of a Notice of Hearing dated November 30, 2009, the Mutual Fund Dealers Association of Canada (“MFDA”) commenced a disciplinary proceeding against the Applicants.
2. Those disciplinary proceedings were resolved only after lengthy and involved settlement discussions between the Applicants and compliance staff. The settlement agreement was approved by a Hearing Panel of the MFDA on April 8, 2010 (the “Settlement”). The Applicants agreed to admit certain infractions, and the facts pertaining to those infractions on the basis that Messrs. Sawh and Trkulja would be considered fit to continue in the capacity of mutual funds salespersons only.
3. On November 2, 2010, a one day hearing was conducted before Director Bridge of the Ontario Securities Commission, in order to determine the Applicants application for reactivation of their registration as mutual funds salespersons.
4. In reaching her conclusion, Director Bridge failed to deliver proper reasons for her Decision. Specifically, she failed to properly undertake a review of the evidence

before her to support her findings of fact and relied solely on the MFDA Settlement Agreement and uncontested affidavits of former investor clients.

5. The Director erred by making important findings of fact based on a misapprehension of the evidence and on an incomplete factual record. The Director explicitly states in her Decision that she relied on the statements made in the affidavits; however, the affiants were not available for cross-examination on the record. These critical factual findings made by the Director were subject to contradictory evidence that the Director failed to take into consideration.
6. The Director overlooked or disregarded material evidence and testimony under oath and subject to cross-examination by the Applicants that directly contradicted the findings of fact ultimately made by the Director.
7. The Director made numerous critical factual findings that were entirely unsupported by clear, convincing and cogent evidence and in many instances subject to contradictory evidence, including, *inter alia* determining that:
  - a. The Applicants do not possess the required integrity to be registered as mutual funds salespersons. The Director relied solely and incorrectly on the MFDA Settlement Agreement;

- b. The Applicants do not possess the required proficiency to be registered as mutual funds salespersons. The Director relied solely and incorrectly on the MFDA Settlement Agreement;
  - c. The proposed acquisition of the Investment House of Canada (“IHOC”) by Golden Gate Funds (“GGF”) and Alterra Funds (“Alterra”) constituted a conflict of interest. The Director relied incorrectly on Sawh’s testimony rather than consider the totality of the evidence submitted by the Applicants that the proposed acquisition was merely discussions and never amounted to a completed transaction where a conflict of interest would arise.
8. The Director erred by drawing adverse inferences from the Applicants testimony in instances which potentially material evidence was absent from the record or disregarded.
9. The Director’s decision provides little to no evidence of her reasoning, or why she reached the conclusion that she did. The substance of the Director’s Decision consists almost entirely of a copied rendering of facts and Staff’s allegations, followed by a few concluding paragraphs. It contains no factual or legal analysis, and relies on Staff’s submissions as the basis of her conclusion.
10. By rendering her Decision in this fashion, the Director mischaracterized the facts and issues before her, prejudicing the Applicants’ right to a fair hearing.

11. The Director's Decision purports to be an analysis of the Applicants conduct based on the affidavits of five former investor clients who were not produced by Staff for cross-examination.

12. The Director's Decision contains virtually no indication that the Director engaged in a meaningful consideration of the evidence tendered to explain the basis of her very serious and prejudicial findings in denying the application of registration of the Applicants.

13. At stake is the livelihood of two professionals that have been in financial services industry for over eighteen years and have never been subject to such disciplinary proceedings in their careers.

14. Section 8 of the Ontario *Securities Act*, R.S.O. 1990 c. S. 5.

15. Section 21.7 of the Ontario *Securities Act*, R.S.O. 1990 c. S. 5.

16. Section 12 of the *Statutory Powers and Procedure Act*, R.S.O. 1990, c. S. 22.

17. Rules 14.2 and 14.3 of the Commissions' Rules of Procedure made under the *Statutory Powers and Procedure Act*, R.S.O. 1990, c. S.22, as amended.

18. Such further grounds as counsel may submit and this Honourable Commission deem just.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the review:

19. The documentary evidence filed at the Opportunity to be Heard;

20. The transcripts of the Opportunity to be Heard;

21. The Decision of Director Bridge, dated January 25, 2011;

22. Such further evidence as counsel may suggest and this Honourable Commission may allow.

February 18, 2011

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