



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
NEW FUTURES TRADING INTERNATIONAL CORPORATION and
FERNANDO HONORATE FAGUNDES also known as HENRY ROCHE**

ORDER

(Rule 1.5.3 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071)

WHEREAS on March 18, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of New Futures Trading International Corporation ("New Futures") and Fernando Honorate Fagundes also known as Henry Roche ("Fagundes") (collectively, the "Respondents");

AND WHEREAS on March 18, 2013, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

AND WHEREAS on April 3, 2013, the Commission heard applications by Staff to waive service on the Respondents in accordance with Rule 1.5.3 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the "*Rules of Procedure*"), and to convert the matter to a written hearing pursuant to Rule 11.5 of the *Rules of Procedure*;

AND WHEREAS on April 3, 2013, Staff filed the affidavit of Raymond Daubney, an investigator for the Commission, sworn on March 22, 2013, outlining his attempts to locate and contact the Fagundes for the purpose of service;

AND WHEREAS on April 3, 2013, the panel's decision on Staff's application to waive service on the Respondents was reserved to be delivered within 10 days;

AND WHEREAS on April 9, 2013, the panel issued its reasons and decision on Staff's application to waive service;

AND WHEREAS on April 9, 2013, the Commission ordered that;

- (a) the motion to waive service of process on Fagundes is granted, pursuant to Rule 1.5.3 of the *Rules of Procedure*;
- (b) Staff's application to proceed by way of written hearing is granted, pursuant to Rule 11 of the *Rules of Procedure*;
- (c) Staff's materials in respect of the written hearing shall be filed no later than April 17, 2013;
- (d) By April 17, 2013, Staff shall inform Fagundes' brother, by telephone that Fagundes and New Futures are the subject of a Notice of Hearing before the Commission, that Staff is seeking an order against Fagundes and New Futures, and that if he wishes to oppose the granting of an order, Fagundes should serve and file materials with the Commission by May 17, 2013;
- (e) The Respondents' responding materials, if any, shall be served and filed no later than May 17, 2013; and
- (f) In the absence of any responding materials, the Commission shall proceed to consider Staff's application.

AND WHEREAS on April 17, 2013, Staff filed the affidavit of Raymond Daubney, sworn on April 16, 2013, outlining his attempts to locate and contact New Futures for the purpose of service;

AND WHEREAS on April 17, 2013, the panel considered that New Futures was been served the Notice of Hearing and Statement of Allegations through counsel, who accepted service on its behalf, at New Future's last registered address;

AND WHEREAS the panel is satisfied that New Futures has been served the Notice of Hearing and Statement of Allegations, pursuant to Rule 1.5 of the *Rules of Procedure*;

AND WHEREAS the affidavit of Raymond Daubney, sworn on April 16, 2013, provides that counsel accepting service for New Futures has advised he would not respond or file materials on behalf of New Futures in this proceeding;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that:

- (a) future service on New Futures is waived, pursuant to subrule 1.5.3(3) of the *Rules of Procedure*; and
- (b) Staff shall file materials and brief submissions in respect of New Futures no later than April 24, 2013.

DATED at Toronto this 18th day of April, 2013.

"Alan Lenczner"

Alan Lenczner, Q. C.