



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

22<sup>nd</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

22<sup>e</sup> étage  
20, rue queen ouest  
Toronto ON M5H 3S8

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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  
PRO-FINANCIAL ASSET MANAGEMENT INC.**

**ORDER**

**WHEREAS** on May 17, 2013, the Commission issued a temporary order (the “Temporary Order”) with respect to Pro-Financial Asset Management Inc. (“PFAM”) pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) ordering that:

- (i) pursuant to paragraph 1 of subsection 127(1) of the Act, the registration of PFAM as a dealer in the category of exempt market dealer be suspended and the following terms and conditions apply to the registration of PFAM as an adviser in the category of portfolio manager (“PM”) and to its operation as an investment fund manager (“IFM”):
  - a. PFAM’s activities as a PM and IFM shall be applied exclusively to the Managed Accounts (as defined in the Temporary Order) and to the Pro-Hedge Funds and Pro-Index Funds (as defined in the Temporary Order); and
  - b. PFAM shall not accept any new clients or open any new client accounts of any kind in respect of the Managed Accounts;
- (ii) pursuant to subsection 127(6) of the Act, the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

**AND WHEREAS** on May 28, 2013, the Commission ordered: (i) the Temporary Order be extended to June 27, 2013; (ii) the hearing to consider whether to further extend the terms of the Temporary Order and/or to make any further order as to PFAM’s registration proceed on June 26, 2013 at 10:00 a.m.;

**AND WHEREAS** on June 26, 2013, the Commission ordered that: (i) the Temporary Order be extended to July 15, 2013; and (ii) the affidavit of Michael Denyszyn sworn May 24, 2013 not be marked as an exhibit until the next appearance in the absence of a Commission order to the contrary; and the hearing to consider this matter proceed on July 12, 2012;

**AND WHEREAS** on July 11, 2013, the Commission ordered that: (i) the Temporary Order be extended to July 22, 2013; (ii) the hearing be adjourned to July 18, 2013 at 11:00 a.m.; and (iii) the hearing date of July 12, 2013 at 10:00 a.m. be vacated;

**AND WHEREAS** on July 18, 2013, PFAM brought a motion (the “First PFAM Motion”) that the hearing be held *in camera* and that the affidavits of Michael Denyszyn sworn May 24 and June 24, 2013 and the affidavit of Michael Ho sworn July 17, 2013 (collectively the “Staff Affidavits”) either not be admitted as evidence or else be treated as confidential documents and the parties agreed that the motion should be heard *in camera*;

**AND WHEREAS** on July 18, 2013, PFAM’s counsel filed supporting documents (the “PFAM Materials”) in support of the First PFAM Motion and counsel for PFAM and Staff made oral submissions and filed written submissions;

**AND WHEREAS** on July 22, 2013, the Commission ordered:

- (i) the Temporary Order be extended to August 26, 2013;
- (ii) leave be granted to the parties to file written submissions in respect of the First PFAM Motion;
- (iii) the Staff Affidavits, the transcript of the PFAM motion, the PFAM Materials, written submissions filed by Staff and PFAM and other documents presented during the course of the First PFAM Motion shall be treated as confidential documents until further direction or order of the Commission; and
- (iv) the hearing be adjourned to August 23, 2013 at 10:00 a.m.;

**AND WHEREAS** on August 23, 2013, Staff filed with the Commission the affidavit of Michael Ho sworn August 22, 2013 and PFAM’s counsel filed the affidavit of Stuart McKinnon dated August 23, 2013 but the parties did not seek to mark these affidavits as exhibits;

**AND WHEREAS** on August 23, 2013, Staff and counsel for PFAM advised the Commission that the parties had agreed on the terms of a draft order;

**AND WHEREAS** on August 23, 2013, PFAM requested that the hearing be held *in camera* so PFAM’s submissions on certain confidentiality issues could be heard and Staff did not oppose PFAM’s request;

**AND WHEREAS** on August 27, 2013, the Commission ordered:

- (i) the Temporary Order be extended to October 11, 2013;
- (ii) the affidavit of Michael Ho sworn August 22, 2013 and the affidavit of Stuart McKinnon sworn August 23, 2013 be treated as confidential documents until further order of the Commission;

- (iii) PFAM will deliver to Staff the final principal protected note (“PPN”) reconciliation report by 4:30 p.m. on September 30, 2013; and
- (iv) the hearing to consider whether to: (i) make any further order as to PFAM’s registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM’s ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, proceed on October 9, 2013 at 11:00 a.m.;

**AND WHEREAS** on October 9, 2013, PFAM brought a second motion (the “Second PFAM Motion”) for an order that the hearing be held *in camera* and for a confidentiality order treating as confidential documents: (i) the Staff and PFAM affidavits; (ii) all facts and correspondence exchanged by Staff and PFAM; and (iii) any transcript of this and prior *in camera* proceedings;

**AND WHEREAS** on October 9, 2013, PFAM’s counsel filed written submissions dated October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013 and the affidavit of Kenneth White sworn October 7, 2013 in support of the Second PFAM Motion and Staff filed written submissions dated October 9, 2013 and the affidavit of Michael Ho sworn October 8, 2013 and opposed the request for an *in camera* hearing and for the confidentiality order;

**AND WHEREAS** on October 9, 2013, the Commission heard submissions from counsel on the Second PFAM Motion *in camera* and the Commission requested the parties to prepare a draft order that, among other matters, addressed the confidentiality of documents filed with the Commission and permitted BNP Paribas Canada (“BNP”) and Société Générale Canada (“SGC”) (collectively the “Banks”) to review certain documents attached to Staff affidavits dealing substantively with the PPN reconciliation process, provided the Banks treated such documents as confidential;

**AND WHEREAS** on October 11, 2013, the Commission ordered that:

- (i) the Temporary Order be extended to December 15, 2013;
- (ii) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission; and
- (iii) the hearing to consider whether to: (i) make any further order as to PFAM’s registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM’s ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, shall proceed on December 12, 2013 at 10:00 a.m.;

**AND WHEREAS** on October 17, 2013, the Commission ordered (the “October 17, 2013 Order”) that:

- (i) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and

the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission;

- (ii) the previous orders as to confidentiality made by the Commission on July 22, 2013 and August 27, 2013 remain in force until further order or direction of the Commission; and
- (iii) documents related to the PPN reconciliation process listed on Schedule "A" to the October 17, 2013 Order be provided to counsel for the Banks on condition that the Banks treat those documents as confidential documents and not provide copies to any third party without further direction or order of the Commission;

**AND WHEREAS** on September 30, 2013, PFAM agreed to sell to another portfolio manager (the "Purchaser") PFAM's interest in all of the investment management contracts for the Pro-Index Funds and the Managed Accounts (the "First Transaction"). In a second transaction, an investor agreed to purchase through a corporation (the "Investor") all of the shares of the Purchaser (the "Second Transaction"):

**AND WHEREAS** on October 22, 2013, the Purchaser and PFAM filed a notification letter providing Compliance and Registrant Regulation Branch ("CRR Branch") Staff with notice ("Notice") of the application filed under section 11.9 and 11.10 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") relating to the First Transaction and the Second Transaction (collectively, the "Transactions");

**AND WHEREAS** on November 5, 2013, the staff member of the CRR Branch conducting the review of the Notice requested copies of the affidavits of Michael Denyszyn sworn May 24 and June 24, 2013, the affidavits of Michael Ho sworn July 17, August 22 and October 8, 2013, the affidavits of Stuart McKinnon sworn July 17, August 23 and October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the submissions of Staff and Pro-Financial Asset Management Inc. ("PFAM") (collectively, the "Confidential Documents");

**AND WHEREAS** on November 12, 2013, PFAM filed an application with the Investment Funds Branch ("IF Branch") of the Commission for an order under section 5.5 of National Instrument 81-102 – *Mutual Funds* ("NI 81-102") for approval of the Purchaser as investment fund manager of the Pro-Index Funds and the Purchaser applied on October 24, 2013 for registration in the investment fund manager category for this purpose;

**AND WHEREAS** on November 13, 2013, Staff filed a Notice of Motion returnable on a date to be determined by the Secretary's office seeking an Order that Staff of the Enforcement Branch be permitted to provide some or all of the Confidential Documents to certain staff members of the CRR Branch and the IF Branch;

**AND WHEREAS** on November 25, 2013, the Commission ordered that:

- (i) Staff of the Enforcement Branch be permitted to provide the Confidential Documents to the following persons:
  - a. the staff members of the CRR Branch assigned to review the Notice;

- b. the staff member who has been designated to act in the capacity of the Director on behalf of the CRR Branch for the purposes of deciding whether to object to the Notice;
  - c. the staff members of the IF Branch who have been assigned to review the application made by PFAM or the Purchaser under section 5.5 of NI 81-102; and
  - d. the staff member who has been designated to act in the capacity of the “Director” for the purposes of deciding whether to approve the application under section 5.5 of NI 81-102;
- (ii) The CRR staff members assigned to review the Notice be permitted to provide relevant information derived from the Confidential Documents (“Relevant Information”) to PFAM, the Purchaser and their counsel involved in the Notice as part of the CRR staff members’ review and analysis of the Notice on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;
  - (iii) The IF staff members assigned to review the application for change of fund manager be permitted to provide Relevant Information to PFAM, the Purchaser and their counsel involved in the application filed under NI 81-102 as part of the Investment Funds staff members’ review and analysis of the application on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;
  - (iv) The CRR staff members assigned to review the Notice be permitted to provide Relevant Information to the Investor or its counsel with the consent of PFAM; and
  - (v) The parties may seek direction from the Commission in the event that the CRR staff members and PFAM cannot agree on whether Relevant Information should be provided to the Investor or its counsel;

**AND WHEREAS** Staff has filed an affidavit of Michael Ho sworn December 10, 2013 attaching a letter from counsel to The Investment Administration Solution Inc. (“IAS”), PFAM’s recordkeeper for the PPNs, requesting a copy of the PPN reconciliation report submitted by PFAM to Staff;

**AND WHEREAS** PFAM’s counsel provided to Staff and to the Commission and made submissions based on an affidavit of Stuart McKinnon sworn December 11, 2013 which was not marked as an exhibit on December 12, 2013 at the Commission hearing held that day;

**AND WHEREAS** on December 12, 2013, Staff and counsel for PFAM appeared before the Commission and made submissions on: (i) the appropriate form of order to govern the provision of the Confidential Documents to other members of Staff of the Commission; and (ii) whether IAS should receive copies of the PPN reconciliation reports submitted by PFAM to Staff;

**AND WHEREAS** by Commission Order dated December 13, 2013, the Commission ordered that:

- (i) the Confidential Documents may be provided to any member of Staff of the Commission, as necessary in the course of their duties;
- (ii) the Temporary Order be extended to January 24, 2014;
- (iii) the hearing be adjourned to January 21, 2014 at 11:00 a.m.; and
- (iv) Staff shall be entitled to provide a copy of each document relating to the PPN reconciliation process listed on Schedule "A" of the October 13, 2013 order to counsel for IAS on the conditions that: (a) IAS treat those documents as confidential and not provide them to any third party without further direction or order of the Commission; and (b) IAS may use the documents for the purpose of assisting Staff in resolving the PPN discrepancy, and for no other purpose;

**AND WHEREAS** on January 15, 2014, PFAM's counsel advised Staff that the prospectus for the distribution of securities of the Pro- Index Funds had passed its lapse date on January 14, 2014 and PFAM's counsel requested a lapse date extension of 40 days from Staff;

**AND WHEREAS** on January 17, 2014, PFAM's counsel filed a pre-hearing conference memorandum ("PFAM's Pre-Hearing Memorandum") with the Secretary's office to discuss various issues and seek an Order granting an extension to the lapse date for the Pro-Index Funds under subsection 62(5) of the *Act* (the "Lapse Date Relief");

**AND WHEREAS** PFAM filed the affidavit of Stuart McKinnon sworn January 19, 2014 with the Secretary's office and Staff filed the affidavit of Susan Thomas sworn January 20, 2014 with the Secretary's office but neither party marked either affidavit as an exhibit at the appearance on January 21, 2014;

**AND WHEREAS** on January 21, 2014, Staff and PFAM's counsel appeared before the Commission and Staff advised the Commission that: (i) Staff's review of the Notice was expected to take another three to four weeks; (ii) the parties agreed that the prior confidentiality orders should be revised to permit Staff to provide the Confidential Documents or excerpts therefrom to the Purchaser, the Investor and their counsel as Staff determines necessary in the course of their duties and on the condition that the recipients treat such documents as confidential and not disclose them to any third party without further direction or order of the Commission; and (iii) the parties agreed that the Temporary Order should be extended;

**AND WHEREAS** on January 21, 2014, PFAM's counsel requested that submissions relating to the issues raised in PFAM's Pre-Hearing Memorandum be made *in camera* pursuant to Rule 6 of the Commission's *Rules of Procedure*, Staff opposed PFAM's request, and the Commission directed and the parties made submissions *in camera* on the Lapse Date Relief;

**AND WHEREAS** on January 21, 2014, the Commission ordered that: (i) the Temporary Order be extended to February 24, 2014; (ii) the hearing be adjourned to February 21, 2014 at 2:00 p.m.; (iii) Staff who have received the Confidential Documents be permitted to provide the Confidential Documents or an excerpt of the Confidential Documents to the Purchaser, the Investor and their counsel as set out in the Order; and (iv) PFAM be granted the Lapse Date Relief under subsection 62(5) of the *Act* to extend the lapse date for the Pro-Index Funds to February 24, 2014 on the conditions set out in the Order;

**AND WHEREAS** on February 14, 2014, PFAM's counsel served on Staff and filed a pre-hearing conference memorandum with the Secretary's office and requested a confidential pre-hearing conference during the week of February 24, 2014;

**AND WHEREAS** on February 21, 2014, PFAM's counsel was unavailable to attend before the Commission so the Commission ordered: (i) the Temporary Order be extended to March 6, 2014; (ii) the hearing be adjourned to March 3, 2014 at 11:00 a.m.; and (iii) a confidential pre-hearing conference proceed on February 25, 2014 at 3:30 p.m.;

**AND WHEREAS** PFAM's counsel requested in his prehearing conference memorandum an extension to the lapse date for the Pro-Index Funds which was previously extended to February 24, 2014 by Commission order dated January 21, 2014 (the "Further Lapse Date Relief");

**AND WHEREAS** in connection with a confidential pre-hearing conference on February 25, 2014 and the appearance on March 3, 2014, Staff filed the affidavit of Michael Ho sworn February 24, 2014 and written submissions dated February 28, 2014 to oppose the request for the Further Lapse Date Relief and PFAM's counsel filed the affidavits of Stuart McKinnon sworn February 21, 2014 and March 3, 2014 and a factum dated March 3, 2014 in support of the Further Lapse Date Relief;

**AND WHEREAS** on March 3, 2014, counsel for PFAM requested that submissions relating to the Further Lapse Date Relief be heard *in camera* and the Commission agreed to this request and the parties made oral submissions *in camera* on the issue of whether the Commission should grant the Further Lapse Date Relief;

**AND WHEREAS** on March 3, 2014, the Commission ordered that the Further Lapse Date Relief would be granted until April 7, 2014 subject to: (i) PFAM issuing a news release, in a form satisfactory to Staff, to ensure that investors receive full disclosure of the matters identified by Staff as set out below; and (ii) PFAM only being permitted to distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds;

**AND WHEREAS** on March 3, 2014, the Commission advised, in the public portion of the hearing, that there had been two Director decisions recently made affecting PFAM (the "Director Decisions") and PFAM's counsel advised that the affected parties would seek a hearing and review under subsection 8(2) of the Act of both of the Director Decisions on an expedited basis;

**AND WHEREAS** on March 4, 2014, the Commission ordered: (i) the terms and conditions imposed on PFAM's registration by the Temporary Order be deleted and replaced with new terms and conditions which provided that PFAM shall not accept any new clients or open any new client accounts of any kind in respect of its Managed Accounts and that PFAM may only distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds (the "Distribution Restriction"); (ii) PFAM be granted the Further Lapse Date Relief under subsection 62(5) of the Act to extend the lapse date for the Pro-Index Funds to April 7, 2014 subject to the conditions that: (a) PFAM issue a news release by March 6, 2014, in a form satisfactory to Staff, providing disclosure about the specific items set out in the March 4, 2014 order; and (b) PFAM comply with the terms of the March 4, 2014 order; (iii) the hearing be adjourned to April 7, 2014 at 10:00 a.m.; and (iv) the Temporary Order be extended to April 10, 2014;

**AND WHEREAS** on March 6, 2014, a confidential prehearing conference was held to consider a motion by counsel to the Purchaser and the Investor to vary the Distribution Restriction imposed by the Commission in the March 4, 2014 order, so that PFAM could continue distributing securities until April 7, 2014 to new investors after issuing the press release provided for in the March 4 order (the “Variation Motion”);

**AND WHEREAS** on March 6, 2014, the Commission was of the view that the hearing of the Variation Motion should proceed only after a notice of the Variation Motion has been filed with the Secretary’s office so that the public could be advised of the hearing;

**AND WHEREAS** on March 6, 2014, the Commission ordered that: (i) portions of the Commission decision of March 3, 2014 imposing the Distribution Restriction and deleting and replacing the terms and conditions on PFAM’s registration and operation be stayed until March 11, 2014; (ii) PFAM be granted lapse date relief to extend the lapse date for the Pro-Index Funds to March 11, 2014; (iii) the Purchaser and the Investor file notice of the Variation Motion with the Secretary’s office; and (iv) the Variation Motion be adjourned to March 11, 2014 at 1:00 p.m.;

**AND WHEREAS** the Purchaser and Investor’s counsel filed the affidavit of Diego Beltran sworn March 5, 2014, the affidavit of Stuart McKinnon sworn March 11, 2014 and written submissions dated March 6, 2014 in support of the Variation Motion and Staff filed the affidavit of Michael Ho sworn March 10, 2014 and written submissions dated March 10, 2014 to oppose the Variation Motion;

**AND WHEREAS** on March 11, 2014, the Purchaser and the Investor’s counsel made a request that the hearing of the Variation Motion proceed *in camera* and Staff opposed the request and the Purchaser and Investor’s counsel and Staff made oral submissions and the Commission denied the request that the hearing proceed *in camera*;

**AND WHEREAS** on March 11, 2014, Staff opposed the Variation Motion and the Purchaser and Investor’s counsel and Staff made oral submissions on the Variation Motion and Staff advised that a separate order will be required to cease the distribution of securities of the Pro-Index Funds to new investors as of March 11, 2014 if the Variation Motion is dismissed;

**AND WHEREAS** on March 11, 2014, the Commission ordered that: (i) the Variation Motion be dismissed; and (ii) the distribution of securities of the Pro-Index Funds to new investors be ceased as of the end of the day on March 11, 2014;

**AND WHEREAS** PFAM filed the affidavit of Stuart McKinnon sworn April 4, 2014 in support of its request for a further lapse date extension (the “Third Lapse Date Extension Request”) and requested that the affidavit be treated on a confidential basis and Staff filed an affidavit of Mostafa Asadi sworn April 4, 2014 and opposed the Third Lapse Date Extension Request on the basis that PFAM has not filed the annual audited financial statements or the annual management reports of fund performance for the Pro-Index Funds which were due on March 31, 2014;

**AND WHEREAS** on April 7, 2014, PFAM’s counsel requested that the submissions of the parties be heard *in camera* and Staff opposed the request and the Commission directed PFAM’s counsel and Staff to make oral submissions *in camera*;



**AND WHEREAS** on April 7, 2014, Staff requested permission to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or its legal counsel prior to the argument of PFAM's Third Lapse Date Request and PFAM's counsel opposed Staff's request;

**AND WHEREAS** on April 7, 2014, the parties made submissions *in camera* and the Commission directed that the affidavit of Stuart McKinnon sworn April 4, 2014 shall not be received on a confidential basis and directed that the correspondence between Staff and PFAM's counsel be treated as confidential;

**AND WHEREAS** on April 7, 2014, the Commission ordered that: (i) the lapse date for the Pro-Index Funds be extended to April 21, 2014; (ii) the affidavit of Stuart McKinnon sworn April 4, 2014 shall appear on the public record except for exhibits containing the correspondence between Staff and PFAM's counsel, including enclosures; (iii) Staff shall be entitled to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or IAS' legal counsel subject to the conditions that IAS shall treat as confidential all correspondence between PFAM and Staff forming part of the affidavit and IAS shall only use the affidavit to assist Staff in the ongoing proceeding; (iv) the Temporary Order be extended to April 21, 2014; and (v) the hearing be adjourned to April 17, 2014 at 11:00 a.m. to argue the Third Lapse Date Extension Request.

**AND WHEREAS** on April 17, 2014, Staff filed the affidavit of Michael Ho sworn April 11, 2014 to oppose the Third Lapse Date Extension Request and PFAM filed the affidavit of Stuart McKinnon sworn April 16, 2014 in support of the Third Lapse Date Extension Request;

**AND WHEREAS** on April 17, 2014, PFAM's counsel requested that the submissions of the parties on the Third Lapse Date Extension Request be heard *in camera* and Staff opposed PFAM's request and the Commission directed that the parties' submissions on the Third Lapse Date Extension Request would not be heard *in camera*;

**AND WHEREAS** on April 17, 2014, PFAM's counsel made oral submissions and filed written submissions dated April 7 and 17, 2014 in support of the Third Lapse Date Extension Request and Staff made oral and filed written submissions dated April 14, 2014 to oppose PFAM's request and after hearing the parties' submissions, the Commission reserved its decision and adjourned the hearing to April 21, 2014 at 2:00 p.m.;

**AND WHEREAS** on April 21, 2014, the Commission dismissed the Third Lapse Date Extension Request and provided oral reasons for its decision;

**AND WHEREAS** on April 21, 2014, the Commission ordered that: (i) the Third Lapse Date Extension Request be dismissed without prejudice to PFAM bringing an application under section 144 to vary or revoke this order if the audited financial statements and management reports of fund performance for the Pro-Index Funds are filed with the Commission; (ii) notwithstanding that the lapse date for the Pro-Index Funds was previously extended to April 21, 2014, the distribution of securities of the Pro-Index Funds shall cease as of the end of the day on April 21, 2014; (iii) the Temporary Order be extended to May 27, 2014; and (iv) the hearing be adjourned to May 23, 2014 at 10:00 a.m.;

**AND WHEREAS** on May 23, 2014, Staff filed the affidavit of Michael Ho sworn May 22, 2014 to: (i) update the Commission on the payments by PFAM on March 31, April 7 and 8,

2014 of maturity proceeds for certain series of PPNs to an escrow agent as arranged by the Banks and agreed to by PFAM; and (ii) confirm that the current discrepancy between the records of the recordkeeper and the trustee remains unchanged and indicates that the total cash obligation to PPN noteholders exceeds the amount in the trustee's records by \$1,222,549.45;

**AND WHEREAS** on May 23, 2014, the Commission ordered that: (i) the term and condition on PFAM's registration which stated that "PFAM may only distribute securities of the Pro-Index Funds to existing security holders of the Pro-Index Funds" be deleted and replaced with "PFAM shall not distribute securities of the Pro-Index Funds"; (ii) a confidential pre-hearing conference be held on June 5, 2014 at 10:00 a.m.; (iii) the hearing be adjourned to July 2, 2014 at 10:00 a.m.; and (iv) the Temporary Order be extended to July 4, 2014;

**AND WHEREAS** the Secretary's office advised the parties that the Commission was not available on July 2, 2014 and the parties agreed to adjourn the hearing to July 9, 2014 at 10:00 a.m. and to extend the Temporary Order to July 11, 2014;

**AND WHEREAS** on June 11, 2014, the Commission ordered that: (i) a confidential pre-hearing conference in respect of the section 8 hearing and review of the Director Decisions be held on June 26, 2014 at 2:00 p.m.; (ii) the hearing be adjourned to July 9, 2014 at 10:00 a.m.; and (iii) the Temporary Order be extended to July 11, 2014;

**AND WHEREAS** on July 9, 2014, the Commission ordered that: (i) the hearing be adjourned to August 8, 2014 at 10:00 a.m.; and (ii) the Temporary Order as amended by previous Commission orders be extended to August 11, 2014;

**AND WHEREAS** on July 9 and 10, 2014, the Commission held a hearing and review under subsection 8(2) of the Act to consider the decision of the Director of the CRR Branch to object to the Transactions;

**AND WHEREAS** on July 16, 2014, the Commission approved the Transactions under subsections 11.9(5) and 11.10(6) of NI 31-103 subject to nine terms and conditions;

**AND WHEREAS** on August 8, 2014, counsel for PFAM requested a short adjournment to permit counsel with carriage of the PFAM matter to attend before the Commission to make submissions on the affidavit of Michael Ho sworn August 7, 2014;

**AND WHEREAS** on August 8, 2014, the Commission ordered that the Temporary Order be extended to August 29, 2014 and the hearing be adjourned to August 26, 2014 at 10:00 a.m. to hear submissions from the parties;

**AND WHEREAS** on August 26, 2014, Staff filed the affidavit of Michael Ho sworn August 7, 2014 to update the Commission on the complaints received by Staff from PPN noteholders and advisers to PPN noteholders and to set out Staff's information that: (i) in June 2014, PFAM resigned as administrator for the PPNs issued by the Banks; (ii) eight of the nine series of PPNs have matured; (iii) two series of PPNs have been paid out to PPN noteholders at maturity in 2010 and 2011; (iv) in March and April, 2014, the maturity proceeds for five series

of PPNs which matured between December 2012 and March 31, 2014 inclusive were paid to escrow accounts at the BMO Trust Company (“BMO Trust”); (v) one series of PPNs matured on June 30, 2014 and the maturity proceeds have been paid to BMO Trust; (vi) BNP has advised Staff that BNP intends to fund the shortfall and to pay the PPN noteholders the full redemption amounts on the matured series of PPNs issued by BNP; (vii) SGC has advised Staff that SGC has paid the full proceeds payable upon maturity for the matured series of PPNs issued by SGC and such funds are being held in escrow at BMO Trust; (viii) BNP has advised Staff that BNP is currently making the necessary administrative arrangements to make payments to PPN noteholders directly; and (ix) SGC has advised Staff that SGC is carefully reviewing the registers and other records available to identify PPN noteholders and SGC will make arrangement for payment once sufficient reliable information is available;

**AND WHEREAS** on August 26, 2014, the Commission ordered that the Temporary Order be extended to October 1, 2014 and the hearing be adjourned to September 29, 2014 at 10:00 a.m.;

**AND WHEREAS** on September 24, 2014, the Commission rescheduled the PFAM hearing from September 29, 2014 at 10:00 a.m. to September 30, 2014 at 12:30 p.m.;

**AND WHEREAS** on September 30, 2014, the Commission ordered that the Temporary Order be extended to November 24, 2014 and the hearing be adjourned to November 20, 2014 at 10:00 a.m.;

**AND WHEREAS** on November 20, 2014, Staff updated the Commission on: (i) the efforts of SGC and IAS to reach an agreement for access to IAS’s PPN noteholder records; and (ii) the status of PFAM’s and Kingship Capital Corporation’s (“KCC’s”) change of manager application;

**AND WHEREAS** on November 20, 2014, Staff and PFAM’s counsel advised that the parties consent to the adjournment of the hearing to January 14, 2015 and to the extension of the Temporary Order to January 16, 2015 and the Commission advised that the matter should be brought back before the Commission earlier than January 14, 2015 if: (i) SGC and IAS fail to reach an agreement within two weeks; and/or (ii) PFAM’s and KCC’s change of manager application is not approved;

**AND WHEREAS** on November 20, 2014, the Commission ordered that the Temporary Order be extended to January 16, 2015 and the hearing be adjourned to January 14, 2015 at 9:00 a.m.;

**AND WHEREAS** on January 14, 2015, Staff filed the affidavit of Michael Ho sworn January 13, 2015 to update the Commission on SGC’s steps to arrange for payment of the amounts owing on the matured PPNs issued by SGC and to update the Commission on the approval of the change of manager application and the closing of the First Transaction;

**AND WHEREAS** on January 14, 2015, the Commission ordered that: (i) the hearing be adjourned to February 25, 2015 at 10:00 a.m.; and (ii) the Temporary Order as amended by previous Commission orders is extended to February 27, 2015;

**AND WHEREAS** on February 25, 2015, Staff and PFAM's counsel advised that: (i) the Managed Accounts and the investment management contracts for the Pro-Index Funds were transferred to KCC (now named Smart Investments Ltd.) as part of the First Transaction which closed on December 12, 2014; (ii) PFAM is no longer acting as an adviser in the category of PM; and (iii) PFAM has voluntarily consented to a suspension of its registration as an adviser in the category of PM in order to file an application with the Director of the CRR Branch to surrender its registration;

**AND WHEREAS** PFAM's counsel has advised the Commission that PFAM is no longer carrying on any registerable activities;

**AND WHEREAS** the parties consent to the terms of this Order;

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

**IT IS HEREBY ORDERED** that:

1. The registration of PFAM as an adviser in the category of PM is suspended; and
2. The Temporary Order as amended by previous Commission orders is vacated.

**DATED** at Toronto this 27th day of February, 2015

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Christopher Portner