IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, C. S. 5, AS AMENDED

AND

THE SETTLEMENT AGREEMENT WITH
RON CARTER HEW

REASONS FOR THE DECISION OF THE
ONTARIO SECURITIES COMMISSION

Hearing:	**Wednesday, July 6, 2005**		
Panel:	**Paul M. Moore, Q.C.**	**-**	**Vice-Chair (Chair of the Panel)**
	Robert W. Davis	**-**	**Commissioner**
	Carol S. Perry	**-**	**Commissioner**
Counsel:	**Melissa J. MacKewn**	**-**	**For Staff of the**
	George Gutierrez		**Ontario Securities Commission**
	Ron Carter Hew	**-**	**Self-represented**

The following statement has been prepared for purposes of publication in the Ontario Securities Commission (the "Commission") Bulletin and is based on the transcript of the hearing, including oral reasons delivered at the hearing on the settlement agreement between staff of the Commission and Ron Carter Hew (the "Settlement Agreement"), in the matter of Ron Carter Hew. The transcript has been edited, supplemented and approved by the chair of the panel for the purpose of providing a public record of the decision. This extract should be read together with the Settlement Agreement and the order signed by the panel.

The hearing was conducted *in camera* until the oral decision and reasons were delivered by Vice-Chair Moore.

From the Transcript:

Vice-Chair Moore:

[1] This is a hearing under section 127 of the *Securities Act,* R.S.O 1990, c. S.5 as amended (the "Act"), for the Commission to consider whether it is in the public interest to approve the proposed Settlement Agreement between staff and Ron Carter Hew (the "respondent"), and to make an order approving the sanctions agreed to by staff and the respondent in relation to the respondent's conduct of advising without registration.

[2] We approve the Settlement Agreement as being in the public interest.

Facts

[3] The facts are set out in the Settlement Agreement, which forms part of this proceeding. This is a case of advising without registration. The respondent advised 17 persons over a period of 12 years up to 2004.

[4] He traded in high-risk securities through the Internet and used passwords to access the Internet for various persons. The securities were primarily U.S. high tech stocks and options.

[5] As a result of trading and advising, these persons incurred losses between $600,000 and $800,000.

[6] As part of the advising and trading, the respondent collected commissions, as high as 20% of profits, and, it is estimated, he received upwards of about $80,000 to $100,000 in payments. These funds were used by the respondent for daily living expenses and/or invested by him on his own behalf and ultimately were depleted.

[7] Some of the persons advised were mothers with children, RRSP accounts, and small investors. No suitability judgment was made as to whether these investments would have been suitable for the persons.

[8] There was no indication that the respondent was familiar with the products, that he knew his clients and their needs, or that he had the proficiency required in order to do the activities he undertook. He did not complete any Canadian Securities Course, and there is no evidence that he was knowledgeable in the area that he purported to advise.

[9] There were some disturbing aspects to this particular matter.

[10] In July of 2001, the respondent was warned by the Commission, acting on complaints. He was advised that he was not entitled to engage in the activities of advising or forming an investment club. Notwithstanding this, he continued to do what he had been doing, and he became involved with the start of an investment club in April of 2002.

[11] There has been very little restitution or disgorgement. The respondent is a bankrupt, and is now unemployed. He has no significant funds to disgorge, and he has no significant funds with which he could make restitution. However, he has been making payments to the trustee in bankruptcy and is doing what his financial resources enable him to do to achieve a discharge from bankruptcy anticipated in August.

[12] Another disturbing factor is that the respondent still believes that if some of the investors had invested additional funds with him, he could have recouped their losses.

[13] This is a classic attitude of persons who do not understand the nature of investing, where if only they could be given one more shot they could recoup their losses. This is not a criterion that advisors use; it is not a criterion that investment managers use to manage money for others.

[14] This, we believe, would become more apparent to the respondent had he undertaken the necessary courses and the training required in order to be licensed as a registrant.

[15] This is a classic case of why registration is necessary to allow persons to engage in the business of advising and trading in securities. Registration is meant to protect the public.

[16] A direct consequence of the respondent undertaking activities which he was not entitled to undertake because he had not been registered is the losses that have been suffered by others.

[17] The agreed statement of facts makes it clear that another aspect that a dealer, advisor and trader should undertake as part of their tasks was not done by the respondent.

[18] There was no adequate disclosure of performance. The various persons relying on the respondent to trade for them had no clear idea of their position with respect to gains and losses.

Acceptability of Agreed Sanctions

[19] We looked at the remedies agreed to, and note that 15 years may be a little on the light side. Counsel for staff referred us to various cases. Fifteen years is within acceptable parameters.

[20] While there is no evidence of maliciousness or deliberate dishonesty on the part of the respondent in this case, and no deliberate fraud, we are concerned that he did receive a warning from the Commission and continued to participate in the market.

[21] This may have been through lack of understanding, and based on the respondent's brief comments to us, that is a possibility. On the other hand, it may reflect a lack of concern of the consequences of what he was doing.

[22] Nevertheless, the purpose of sanctions under section 127 is to protect the public in the future and not to punish. So what the panel has to determine is that the 15 year cease trade order is sufficient and fair to all concerned so that the public will be protected.

[23] We are prepared to accept this, with reluctance, on the basis that 15 years is a long period of time and it will make an impression on the respondent. In particular, we ask - we are not ordering - but we do ask that staff arrange to check up on the respondent after one year and after three years to ascertain whether or not he is abiding by the cease trade order that we will be approving.

[24] And of course, we put no restrictions on staff in checking up even further at other times, but we do not think that this is a case where the Commission should wait for complaints to come in.

[25] We are prepared to accept the 15 year period cease trade without a monetary payment because the respondent is a bankrupt and does not have funds. He is unemployed. We are concerned that there is no monetary payment, but accept the economic reality in the particular circumstances.

[26] We feel that as a general deterrence it would have been preferable had there been an amount agreed to on a voluntary basis as a settlement payment. We are satisfied that, on the evidence given, the respondent is making payments to his trustee in bankruptcy which will go towards his general creditors. Therefore, under the circumstances, all that conceivably should be done is being done.

[27] The reprimand is a very important aspect of this particular case. We want it on the record that what the respondent has done is totally unacceptable, and contrary to the very purpose of the Act, which is to keep persons who are not judged fit and proper to deal in securities out of the business.

[28] And so we will be reprimanding the respondent as part of the agreed sanctions, and this will go on the record and will be taken into account if in the future the respondent violates our order.

[29] I can predict that a future panel would take an extremely dim view of any subsequent infraction, and that the sanctions would be much more severe than those agreed to today. Commissioner Davis, would you like to add anything?

Commissioner Davis:

[30] No, I have nothing to add. Thank you.

Vice-Chair Moore:

[31] Commissioner Perry, would you like to add anything?

Commissioner Perry:

[32] No.

Vice-Chair Moore:

[33] Mr. Hew, would you please stand. You have heard what I have had to say. Do you understand the seriousness of what you have done?

Ron Carter Hew:

[34] Yes, I have.

Vice-Chair Moore:

[35] And you appreciate the fact that this cease trade order means that you cannot do what you have been doing in the past?

Ron Carter Hew:

[36] Yes, I understand that.

Vice-Chair Moore:

[37] And that will be for at least 15 years. And even then, after the 15 year period, you would have to be registered if in fact you wanted to get into the business of dealing in securities.

[38] In the meantime, you cannot even trade for your own account. You cannot buy and sell securities for your own account, except through an RRSP if you establish it in the future, but that would just be your own RRSP. Do you understand that?

Ron Carter Hew:

[39] Yes, I understand.

Vice-Chair Moore:

[40] Thank you. You have been reprimanded. You may sit down. We are prepared to sign the order.

Approved by the Chair of the Panel on July 18th, 2005.

"Paul M. Moore"

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Paul M. Moore, Vice-Chair