



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 IAN OVERTON**

**STATEMENT OF ALLEGATIONS  
OF STAFF OF THE ONTARIO SECURITIES COMMISSION  
(Section 127)**

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

**I. OVERVIEW**

2. Ian Overton (the “Respondent” or “Overton”), who was the designated compliance officer (“DCO”) of a limited market dealer, failed to ensure that the limited market dealer kept books, records and other documents as were necessary for the proper recording of the business transactions and financial affairs of the limited market dealer contrary to section 19(1) of the Securities Act, R.S.O. 1990 c. S.5 as amended (the “Act”). Overton, as a registrant, also failed in his duty to act fairly with his clients by receiving compensation directly from a third party and failing to ensure that such compensation earned by the limited market dealer under a fee splitting and other consulting engagements were properly reflected in the limited market dealer’s books

and records contrary to section 2.1 of OSC Rule 31-505 Conditions of Registration. Overton as the DCO at the limited market dealer also failed to provide adequate compliance oversight and supervision over the activities of the limited market dealer contrary to sections 1.3 and 3.1 of OSC Rule 31-505 Conditions of Registration.

## **II. THE RESPONDENT**

3. Between 2007 and 2010 (the "Material Time"), Overton was an officer of MAK Allen & Day Capital Partners Inc. ("MAK") and, as of June 2007, Overton was registered with the Commission as the DCO of MAK.

4. MAK was registered as a limited market dealer or as an exempt market dealer during the Material Time. MAK was part of the frontierAlt ("FALT") financial organization by virtue of it being a wholly owned subsidiary of the FALT parent company, frontierAlt Capital Corporation.

## **III. PARTICULARS OF ALLEGATIONS**

5. The FALT financial organization consisted of, among other things, a public mutual fund, frontierAlt Resource Capital Class Fund ("FALT Resource"), and two limited partnerships organized as public non-redeemable investment funds namely frontierAlt 2007 Energy & Precious Metals Flow-Through Limited Partnership ("FALT 2007 LP") and frontierAlt 2008 Precious Metals & Energy Flow-Through Limited Partnership ("FALT 2008 LP" and together with FALT 2007 LP, the "FALT LPs").

6. FALT Resource and the FALT LPs (collectively the "FALT Investment Funds") retained a third-party investment counsel and portfolio manager ("ICPM") to provide ICPM services to the FALT Investment Funds pursuant to portfolio management contracts.

7. The FALT LPs prepared and filed prospectuses and raised approximately \$24 million from the public in December 2007 and April 2008. The FALT LPs and FALT Resource were active purchasers and sellers of securities of resource issuers including private placement purchases which in the case of the FALT LPs were principally flow through securities which generated income tax benefits for the FALT LPs limited partners. MAK's market intermediation consisted predominantly of facilitating the private placement purchases of securities of resource issuers by the FALT Investment Funds.

8. In practice, investment recommendations to the ICPM were routinely made by representatives of MAK, principally Overton, and the approval of the investments by the ICPM was routinely received by MAK verbally. No written trade instructions were received by MAK from the ICPM and MAK did not record the trade instructions from the ICPM.

9. During the Material Time, Overton failed to ensure that MAK kept proper books and records respecting its dealer activities. Overton failed to ensure that MAK maintained an adequate trading blotter, a record of trade instructions received from the ICPM of the FALT Investment Funds and a complete record of client documentation including subscription agreements for all its clients.

10. In 2009, MAK earned fees through a fee splitting referral arrangement with a third-party dealer. Such dealer had arranged for a flow-through investment in an issuer by a party unrelated to FALT. On the authority of a principal of MAK, a portion of the MAK-earned fee (warrants) was paid directly to Overton. Overton failed to ensure that all the fees earned by MAK under the fee splitting referral arrangement with the dealer were properly reflected in MAK's books and records.

11. In September 2009, Overton, on the authority of a principal of MAK, received shares directly from a third-party issuer pursuant to an engagement with MAK. Overton failed to ensure that all of the fees received by MAK pursuant to the engagement were properly reflected in MAK's books and records.

12. Also in 2009, an issuer engaged MAK to provide consulting services. On the authority of a principal of MAK, Overton received directly a portion of the fee (shares) earned by MAK. Overton failed to ensure that all the fees earned by MAK were properly reflected in MAK's books and records.

13. During the Material Time as described in this Part, Overton failed in his duty as the DCO at MAK to provide adequate compliance oversight and supervision over the activities of MAK and to ensure adequate books and records were kept.

**PART IV - CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND  
CONTRARY TO THE PUBLIC INTEREST**

14. By engaging in the conduct as described above, the Respondent acted contrary to Ontario securities law and contrary to the public interest.

15. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

**DATED** at Toronto this 9<sup>th</sup> day of September, 2011.