



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  
KWOK-ON ALOYSIUS LO**

**SETTLEMENT AGREEMENT**

**PART I – INTRODUCTION**

1. By Notice of Hearing to be issued, the Ontario Securities Commission (the “Commission”) will announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Kwok-On Aloysius Lo (the “Respondent”).

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission (“Staff”) agree to recommend settlement of the proceeding against the Respondent in accordance with the terms and conditions set out below. The Respondent consents to the making of an order against him in the form attached as Schedule “A” on the basis of the facts set out below.

### **PART III – AGREED FACTS**

3. For the purposes of this settlement hearing, and any proceeding commenced by another Canadian securities regulator, the Respondent agrees with the facts in Part III and the conclusion in Part IV of this Settlement Agreement.

#### **Minimum Guaranteed Fill Background**

4. A market maker is assigned to certain stocks traded on the Toronto Stock Exchange (“TSX”) in order to maintain a fair, orderly and continuous two-sided market for the stocks. The participation of a market maker serves to enhance liquidity of, and reduce volatility in, the market for the shares. The market maker commits to trade all orders of a certain size (known as a minimum guaranteed fill or MGF) within a spread goal (the price difference between buy and sell orders). The MGF and spread goal will vary by company, depending on the size of the issuer and trading activity.
5. When there is insufficient stock in the order book to fill an order, the market maker is required to guarantee an automatic and immediate “one price” execution of MGF eligible orders.

#### **Respondent’s Trading related to Minimum Guaranteed Fill**

6. The Respondent is a resident of Ontario. He has never been registered in any capacity under the *Act*.
7. In the period May 1, 2006 to September 30, 2006, the Respondent executed trades in a manner that repeatedly invoked the minimum guarantee fill (“MGF”) facility of the TSX for the shares of 8 listed stocks and resulted in trades at artificial prices. Particulars of that trading activity are set out below.

8. The Respondent executed sets of trades in quick succession with the following pattern:
- (a) From one account, he placed an order to purchase a small number of shares at a price slightly below the posted offer;
  - (b) Through another account, he entered an order to sell a larger number of shares at the new bid (which was established in his first order described above); and
  - (c) The account that placed the sell order had its order filled, in part by the first order and in part by the market maker's account because the MGF facility was invoked.

As a result of this trading pattern, trades were executed at artificial prices because the fill of the order described in (b) above took place at a higher price than the prevailing market (as represented by the posted bid and offer) immediately before the first order was entered by the Respondent.

9. Through ninety trades of this nature ("MGF Trades"), the Respondent generated a profit of \$12,086.00 among the accounts described below.
10. In carrying out the MGF trades, the Respondent executed 5 wash trades which involved no change in beneficial ownership of the shares.

### **Registration requirement**

11. In carrying out the MGF Trades, the Respondent traded in his own discount brokerage account and in the discount brokerage accounts of two other individuals.
12. The two individual account holders were not sophisticated investors. They authorized the Respondent to select and implement a trading strategy for their accounts and had knowledge of the trading in their accounts by the Respondent. To execute trades, the Respondent accessed the two individuals' accounts online, after he requested and received their account numbers and passwords. The Respondent

ought to have been registered under the *Act* to carry out this trading activity. According to brokerage firm records, the Respondent did not have trading authority in the accounts of the two individuals.

13. The trading among his own account and the accounts of the other two individuals resulted in a transfer of economic wealth from the accounts of the two individuals to the Respondent's account. The total transfer of economic wealth from the accounts of the two individuals to the Respondent's account was \$6,555.00.

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

14. By engaging in the conduct described above, the Respondent has breached Ontario securities law by contravening s. 25 [by trading without registration] and 126.1(a) [by conduct that resulted in or contributed to an artificial price for securities] of the *Act* and has acted contrary to the public interest.

#### **PART V – TERMS OF SETTLEMENT**

15. The Respondent agrees to the terms of settlement listed below.
16. The Commission will make an order pursuant to s. 127(1) and s. 127.1 of the *Act* that:
  - (a) the settlement agreement is approved;
  - (b) the Respondent is prohibited from becoming a registrant under Ontario securities law for a period of 10 years commencing on the date of the Commission's order;
  - (c) the Respondent is prohibited from trading or acquiring securities for a period of 5 years commencing on the date of the Commission's order, subject to the exception that the Respondent will be permitted to trade in one RRSP account in his own name (which he will identify in writing to the Staff of the

Commission), provided that the trades in the RRSP account are limited to trades in mutual fund units, guaranteed investment certificates, treasury bills, debt instruments that cannot be converted (directly or indirectly) into shares or securities listed on the Toronto Stock Exchange or New York Stock Exchange;

- (d) the exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years commencing on the date of the Commission's order;
  - (e) the Respondent pay disgorgement of \$18,641.00, to be allocated under s. 3.4(2)(b) of the *Act* to or for the benefit of third parties; and
  - (f) the Respondent pay the Commission's costs of the investigation in the amount of \$5,000.00.
17. Any payments ordered above will be made by certified cheque at the time of the Commission's approval of this Settlement Agreement and shall be made by the Respondent personally and the Respondent will not be reimbursed for or receive a contribution towards this payment from any other person or company.
18. The Respondent undertakes that he will consent to an Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 14(b) to (d) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

#### **PART VI – STAFF COMMITMENT**

19. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in relation to the facts set out in Part III herein, subject to the provisions of paragraph 18 below.
20. If this Settlement Agreement is approved by the Commission and at any subsequent time the Respondent fails to honour the terms of the Settlement Agreement, Staff

reserve the right to bring proceedings under Ontario securities law against the Respondent based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

#### **PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT**

21. Approval of this Settlement Agreement will be sought at a public hearing before the Commission scheduled for March 5, 2009, or such other date as may be agreed to by Staff and the Respondent, in accordance with the procedures set out herein and the Commission's Rules of Practice.
22. Staff and the Respondent agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding the Respondent's conduct, unless the parties agree that further facts should be submitted at the settlement hearing.
23. If this Settlement Agreement is approved by the Commission, the Respondent agrees to waive all rights to a full hearing, judicial review, or appeal of this matter under the *Act*.
24. If this Settlement Agreement is approved by the Commission, the Respondent will not make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.
25. Whether or not this Settlement Agreement is approved by the Commission, the Respondent agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

**PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT**

26. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule “A” to this Settlement Agreement is not made by the Commission:
- i. this Settlement Agreement and its terms, including all discussions and negotiations between Staff and the Respondent prior to the settlement hearing, shall be without prejudice to Staff and the Respondent; and
  - ii. each of Staff and the Respondent will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations, unaffected by the Settlement Agreement or the settlement discussions/negotiations.
27. The terms of the Settlement Agreement will be treated as confidential by both parties until approved by the Commission. Any obligations of confidentiality will terminate upon approval of the Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of both the Respondent and Staff or as may be required by law.

**PART IX – EXECUTION OF SETTLEMENT AGREEMENT**

28. This agreement may be signed in one or more counterparts which together will constitute a binding agreement.

29. A facsimile copy of any signature will be as effective as an original signature.

Dated this 2nd day of March, 2009.

**STAFF OF THE ONTARIO SECURITIES COMMISSION**

*“Tom Atkinson”*

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Tom Atkinson  
Director, Enforcement Branch

*“Kwok-On Aloysius Lo”*

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Kwok-On Aloysius Lo

*“Yadis Vasquez”*

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Witness

**SCHEDULE A**

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

**-and-**

**IN THE MATTER OF  
KWOK-ON ALOYSIUS LO**

**O R D E R  
(Section 127 and 127.1)**

**WHEREAS** on March , 2009 the Commission issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act* (the “Act”) in respect of Kwok-On Aloysius Lo’s trading in the shares of 8 listed securities;

**AND WHEREAS** on March , 2009, Staff of the Commission filed a Statement of Allegations;

**AND WHEREAS** Kwok-On Aloysius Lo and Staff of the Ontario Securities Commission entered into a settlement agreement dated February , 2009 (the “Settlement Agreement”) in relation to the matters set out in the Statement of Allegations;

**AND WHEREAS** the Commission issued a Notice of Hearing dated March 2, 2009 setting out that it proposed to consider the Settlement Agreement;

**UPON** reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions of Staff of the Commission and of counsel for Kwok-On Aloysius Lo;

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

**IT IS HEREBY ORDERED, PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT, THAT:**

- (g) the settlement agreement is approved;
- (h) the Respondent is prohibited from becoming a registrant under Ontario securities law for a period of 10 years commencing on the date of the Commission's order;
- (i) the Respondent is prohibited from trading or acquiring securities for a period of 5 years commencing on the date of the Commission's order, subject to the exception that the Respondent will be permitted to trade in one RRSP account in his own name (which he will identify in writing to the Staff of the Commission), provided that the trades in the RRSP account are limited to trades in mutual fund units, guaranteed investment certificates, treasury bills, debt instruments that cannot be converted (directly or indirectly) into shares or securities listed on the Toronto Stock Exchange or New York Stock Exchange;
- (j) the exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years commencing on the date of the Commission's order;
- (k) the Respondent pay disgorgement of \$18,641.00, to be allocated under s. 3.4(2)(b) of the *Act* to or for the benefit of third parties; and
- (l) the Respondent pay the Commission's costs of the investigation in the amount of \$5,000.00.

Dated at Toronto, Ontario this    day of March 2009

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