



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 FOUND FREEDOM FINANCIAL,
RON DEONARINE SINGH, WAYNE GERARD MARTINEZ, PAULINE LEVY,
DAVID WHIDDEN, PAUL SWABY AND ZOMPAS CONSULTING**

**SETTLEMENT AGREEMENT
BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION
AND PAUL SWABY AND ZOMPAS CONSULTING**

PART I – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to 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 Paul Swaby (“Swaby”) and Zompas Consulting (“Zompas”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agree to recommend settlement of the proceeding commenced by Notice of Hearing dated November 2, 2011 (the “Proceeding”) against Swaby and Zompas (collectively, the “Respondents”) in accordance with the terms and conditions set out below. The Respondents consent to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts as set out in Part III of this Settlement Agreement. To the extent the Respondents do not have personal knowledge of certain facts as described below, the Respondents believe those facts to be true and accurate.
4. Swaby is an Ontario resident and has never been registered with the Commission in any capacity.
5. Zompas is a sole proprietorship owned and operated by Swaby. Zompas has never been a reporting issuer in Ontario and has never been registered with the Commission in any capacity.
6. During the period of December 2008 to August 2009 (the “Material Time”), the Respondents accepted funds from New Found Freedom Financial (“NFF”) for the purpose of engaging in foreign exchange trading (the “Swaby Investment”). The Swaby Investment was an “investment contract” within the definition of a “security” in section 1(1) of the Act.
7. NFF is a general partnership owned and operated by Ron Deonarine Singh and Wayne Gerard Martinez. NFF operated a foreign exchange (“Forex”) investment program during the Material Time, pursuant to which it accepted funds from investors and provided part of those funds to several Forex traders, including the Respondents.
8. Between December 2008 and January 2009, the Respondents accepted approximately \$198,000 from NFF in relation to the Swaby Investment. The Respondents agreed to conduct Forex trading with these funds and to provide NFF with all trading profits generated up to 8% per month. Trading profits beyond 8% per month were to be retained by the Respondents.

9. Between December 2008 and August 2009, Swaby transferred approximately \$139,000 of the funds received from NFF to a trading account held in his name at Interbank FX, LLC, an online Forex trading platform. At least \$133,000 of that amount was lost in Forex trading. Of the remaining funds the Respondents received from NFF, approximately \$51,500 was repaid to NFF, directly or indirectly. The remaining balance of approximately \$7,500 was never used for Forex trading, nor was it returned to NFF.

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

10. By engaging in the conduct described above, the Respondents traded in securities without being registered to do so and without an exemption from the registration requirement, contrary to section 25(1)(a) of the Act, and engaged in trades in securities which were distributions for which no preliminary prospectus or prospectus was filed or received by the Director, contrary to s. 53(1) of the Act.
11. The Respondents' conduct was contrary to the public interest and harmful to the integrity of the capital markets.

PART V – TERMS OF SETTLEMENT

12. The Respondents agree to the terms of settlement listed below.
13. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:
 - (a) The Settlement Agreement is approved;
 - (b) Trading in any securities by Swaby and Zompas shall cease for a period of ten (10) years commencing from the date of the order approving this Settlement Agreement (this "Order"), with the exception that, once the entire amount of payments set out in sub-paragraphs 13(i), (j) and (k) are paid in full, Swaby be

permitted to trade securities for the account of his registered retirement savings plan as defined in the *Income Tax Act*, 1985, c.1 as amended (the “*Income Tax Act*”) solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any “exchange-traded security” or “foreign exchange-traded security” within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities, or (b) any security issued by a mutual fund that is a reporting issuer;

- (c) The acquisition of any securities by Swaby and Zompas is prohibited for a period of ten (10) years commencing from the date of this Order, with the exception that Swaby be permitted to acquire securities for the account of his registered retirement savings plan as defined in the *Income Tax Act* once the entire amount of payments set out in sub-paragraphs 13(i), (j) and (k) are paid in full, in accordance with the exception requirements as set out in paragraph (b) above;
- (d) Any exemptions contained in Ontario securities law do not apply to Swaby and Zompas for a period of ten (10) years commencing from the date of this Order;
- (e) Swaby and Zompas are reprimanded;
- (f) Swaby shall resign any positions he holds as a director or officer of an issuer;
- (g) Swaby is prohibited for a period of ten (10) years from the date of this Order from becoming or acting as a director or officer of an issuer, registrant or investment fund manager;
- (h) Swaby is prohibited for a period of ten (10) years from the date of this Order from becoming or acting as a registrant, investment fund manager or promoter;

- (i) Swaby and Zompas shall pay to the Commission an administrative penalty in the amount of \$7,500, on a joint and several basis, for their failure to comply with Ontario securities law, to be designated under subsection 3.4(2)(b) of the Act;
 - (j) Swaby and Zompas shall disgorge to the Commission the amount of \$7,500, on a joint and several basis, obtained as a result of their non-compliance with Ontario securities law, to be designated under subsection 3.4(2)(b) of the Act;
 - (k) Swaby and Zompas shall pay costs to the Commission in the amount of \$3,000, on a joint and several basis; and
 - (l) Until the entire amount of payments set out in sub-paragraphs 13(i), (j) and (k) are paid in full, the provisions of sub-paragraph 13(b), (c), (d), (g) and (h) shall continue in force without any limitation as to time period.
14. In regard to the payments set out in sub-paragraphs 13(i), (j) and (k) above, Swaby agrees to make a payment of \$1,500 by certified cheque or bank draft on the date of this Order. Swaby further agrees to pay at least \$200 every month thereafter until the amounts set out in sub-paragraphs 13(i), (j) and (k) above are paid in full.
15. The Respondents undertake to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 13(b) to (h) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

PART VI – STAFF COMMITMENT

16. If the Commission approves this Settlement Agreement, Staff will not initiate any other proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 17 below.

17. If the Commission approves this Settlement Agreement and the Respondents fail to comply with any of the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against the Respondents. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement. In addition, if this Settlement Agreement is approved by the Commission, and the Respondents fail to comply with the terms of the Settlement Agreement, the Commission is entitled to bring any proceedings necessary to recover the amounts set out in sub-paragraphs 13(i), (j) and (k) above.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

18. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for July 26, 2012, or on another date agreed to by Staff and the Respondents, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.
19. Staff and the Respondents agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing regarding the Respondents' conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
20. If the Commission approves this Settlement Agreement, the Respondents agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.
21. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
22. Whether or not the Commission approves this Settlement Agreement, the Respondents will not use, in any proceeding, 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

23. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule “A” to this Settlement Agreement:
 - i. this Settlement Agreement and all discussions and negotiations between Staff and the Respondents before the settlement hearing takes place will be without prejudice to Staff and the Respondents; and
 - ii. Staff and the Respondents will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

24. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

25. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

26. A fax copy of any signature will be treated as an original signature.

Dated this 23 day of July, 2012

"Deborah Deerr"

Witness

"Paul Swaby"

Paul Swaby

Dated this 23 day of July, 2012

"Deborah Deerr"

Witness

"Paul Swaby"

Zompas Consulting

Dated this 23 day of July, 2012

STAFF OF THE ONTARIO
SECURITIES COMMISSION

"Tom Atkinson"

Director, Enforcement Branch



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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CP 55, 19e étage
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SCHEDULE "A"

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

-AND-

IN THE MATTER OF NEW FOUND FREEDOM FINANCIAL, RON DEONARINE SINGH, WAYNE GERARD MARTINEZ, PAULINE LEVY, DAVID WHIDDEN, PAUL SWABY AND ZOMPAS CONSULTING

ORDER

WHEREAS on November 2, 2011, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), in connection with the allegations set out in the Statement of Allegations filed by Staff of the Commission ("Staff") on November 1, 2011;

AND WHEREAS Paul Swaby ("Swaby") and Zompas Consulting ("Zompas") entered into a settlement agreement with Staff dated ● (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS on ●, the Commission issued a Notice of Hearing pursuant to section 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, and the Statement of Allegations, and upon hearing submissions from Staff and counsel for Swaby and Zompas;

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(1) AND 127.1 OF THE ACT, THAT:

- (a) the Settlement Agreement is approved;
- (b) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Swaby and Zompas shall cease for a period of ten (10) years commencing from the date of this Order, with the exception that, once the entire amount of payments set out in paragraphs (i), (j) and (k) below are paid in full, Swaby shall be permitted to trade securities for the account of his registered retirement savings plan as defined in the *Income Tax Act*, 1985, c.1 as amended (the "*Income Tax Act*") solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities, or (b) any security issued by a mutual fund that is a reporting issuer;
- (c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Swaby and Zompas is prohibited for a period of ten (10) years commencing from the date of this Order, with the exception that Swaby shall be permitted to acquire securities for the account of his registered retirement savings plan as defined in the *Income Tax Act* once the entire amount of payments set out in paragraphs (i), (j) and (k) below are paid in full, in accordance with the exception requirements as set out in paragraph (b) above;

- (d) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Swaby and Zompas for a period of ten (10) years commencing from the date of this Order;
- (e) pursuant to clause 6 of subsection 127(1) of the Act, Swaby and Zompas are reprimanded;
- (f) pursuant to clause 7 of subsection 127(1) of the Act, Swaby shall resign any positions he holds as a director or officer of an issuer;
- (g) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Swaby is prohibited for a period of ten (10) years from the date of this Order from becoming or acting as a director or officer of an issuer, registrant or investment fund manager;
- (h) pursuant to clause 8.5 of subsection 127(1) of the Act, Swaby is prohibited for a period of ten (10) years from the date of this Order from becoming or acting as a registrant, investment fund manager or promoter;
- (i) pursuant to clause 9 of subsection 127(1) of the Act, Swaby and Zompas shall pay to the Commission an administrative penalty in the amount of \$7,500, on a joint and several basis, for their failure to comply with Ontario securities law, to be paid to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act;
- (j) pursuant to clause 10 of subsection 127(1) of the Act, Swaby and Zompas shall disgorge to the Commission the amount of \$7,500, on a joint and several basis, obtained as a result of their non-compliance with Ontario securities law, to be paid to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act;
- (k) pursuant to section 127.1 of the Act, Swaby and Zompas shall pay costs to the Commission in the amount of \$3,000, on a joint and several basis;

- (l) in regard to the payments set out in paragraphs (i), (j) and (k) above, Swaby shall make a payment of \$1,500 by certified cheque or bank draft on the date of this Order and shall pay at least \$200 every month thereafter until the amounts set out in paragraphs (i), (j) and (k) above are paid in full; and
- (m) until the entire amount of payments set out in paragraphs (i), (j) and (k) above are paid in full, the orders in paragraphs (b), (c), (d), (g) and (h) above shall continue in force without any limitation as to time period.

DATED at Toronto this _____ day of July, 2012
