



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**

**STATEMENT OF ALLEGATIONS  
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

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

**I. OVERVIEW**

1. This proceeding involves the unregistered trading and illegal distribution of securities by the respondents between April 2008 and October 2009 (the “Material Time”).
2. New Found Freedom Financial (“NFF”), Ron Deonarine Singh (“Singh”) and Wayne Gerard Martinez (“Martinez”) solicited Ontario residents, both directly and through Pauline Levy (“Levy”) and David Whidden (“Whidden”), to invest in investment contracts offered by NFF. NFF in turn invested part of the investor funds it received with Paul Swaby (“Swaby”) and Zompas Consulting (“Zompas”).
3. NFF, Singh and Martinez engaged in fraudulent conduct by making untrue or misleading statements to investors regarding the use of investor funds, the source of monthly return payments, and guarantees on invested principal.

## **II. THE RESPONDENTS**

4. NFF is a general partnership which was registered under the *Business Names Act*, R.S.O. 1990, c. B.17, in Ontario on April 4, 2008. NFF has never been a reporting issuer in Ontario and has never been registered with the Ontario Securities Commission (the “Commission”) in any capacity.
5. Singh and Martinez are each 50% partners in NFF and are the directing minds of NFF. Singh and Martinez are residents of Scarborough, Ontario. Neither Singh nor Martinez have ever been registered with the Commission in any capacity.
6. Levy is a resident of Maple, Ontario. She has never been registered with the Commission in any capacity.
7. Whidden is a resident of Stratford, Ontario. He has never been registered with the Commission in any capacity.
8. Zompas is a sole proprietorship owned and operated by Swaby. Swaby resided in Pickering, Ontario during the Material Time. Zompas has never been a reporting issuer in Ontario and has never been registered with the Commission in any capacity, nor has Swaby ever been registered with the Commission in any capacity.

## **III. BACKGROUND**

### **A. The NFF Investment**

9. During the Material Time, NFF accepted funds from Ontario residents for a foreign exchange investment program (the “NFF Investment”). The NFF Investment was an “investment contract” within the definition of a “security” in section 1(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”).
10. The characterization of the NFF Investment changed over time. It was initially described as managed foreign exchange (“Forex”) accounts. In or about the summer of 2009, NFF began to characterize the NFF Investment as a marketing program in which investors

made a principal payment characterized as a “membership fee”, and received monthly payments characterized as “marketing fees”.

11. Regardless of the characterization of the NFF Investment, the key elements remained the same. Investors entered into a written agreement with NFF with respect to their investment. They were told that NFF would engage Forex traders who would trade with their funds. Investors were typically promised a fixed return of 5% per month (or 60% per annum) on their invested principal, although some investors were promised fixed returns of up to 8% per month (or 96% per annum).
12. Investors were told that their monthly return would be funded by NFF’s Forex trading profits. Investors also understood that any compensation payable to NFF, Martinez and/or Singh would be funded by NFF’s trading profits. Investors were told that 80% or 100% of their principal was guaranteed.
13. During the Material Time, approximately 57 investors invested a total of approximately \$1.8 million in the NFF Investment.

**B. Solicitation of Investors**

14. NFF, Singh and Martinez directly solicited Ontario residents to invest in the NFF Investment. NFF also paid referral fees to others who solicited investors on its behalf.
15. During the Material Time, Singh and Martinez met with investors, discussed the features of the NFF Investment, and provided investors with promotional materials. They also told investors that their principal was guaranteed. They accepted investor funds on behalf of NFF, pooled investors funds and transferred part of those funds to Forex traders.
16. NFF also solicited investors indirectly through Whidden and Levy. NFF agreed to pay Whidden and Levy referral fees for investors they referred to the NFF Investment.
17. Whidden began soliciting Ontario residents to invest in the NFF Investment in or about October 2008. Between October 2008 and October 2009, at least 10 investors invested a total of approximately \$332,000 as a result of Whidden’s promotional and trading activities. These activities included discussing the features of the NFF Investment with

investors, providing investors with promotional materials and providing blank investment agreements for investors to complete.

18. In exchange for these activities, NFF agreed to pay Whidden referral fees of 3% per month (or 36% per annum) of the principal invested by most of the investors he referred. Whidden received a total of approximately \$47,000 in referral fees from NFF during the Material Time.
19. Levy began soliciting Ontario residents to invest in the NFF Investment in or about June 2008. Between June 2008 and October 2009, at least 10 investors invested a total of approximately \$270,000 as a result of Levy's promotional and trading activities. These activities included discussing the features of the NFF Investment with investors, providing investors with promotional materials and telling investors that their principal was guaranteed. Levy also provided blank investment agreements for investors to complete, completed part of the agreements on behalf of some investors, collected investor funds on behalf of NFF and facilitated the payment of monthly returns to investors.
20. In exchange for these activities, NFF agreed to pay Levy referral fees of up to 5% per month (or 60% per annum) of the principal invested by the investors she referred. Levy received payments from NFF through an associate totalling approximately \$64,000 during the Material Time, part of which was referral fees.

**C. Fraudulent Conduct**

21. NFF, Singh and Martinez represented to investors that their funds would be used for Forex trading or kept on deposit in a trading account, that the promised monthly return would be funded by NFF's Forex trading profits, and that investors' principal was guaranteed. These statements were untrue or misleading and perpetrated a fraud on investors.
22. NFF accepted approximately \$1.8 million from investors during the Material Time. However, only approximately \$1.1 million was provided by NFF to the three Forex traders it engaged, Investment International Inc. ("I3"), Sylvan Blackett ("Blackett") and

Swaby (collectively, the “Forex Traders”). I3 and Blackett have been named as respondents in separate ongoing proceedings. The United States Commodity Futures Trading Commission filed a complaint against I3 in the United States District Court, Northern District of Ohio, on October 7, 2010, alleging that I3 and others operated a Ponzi scheme. The Commission issued a notice of hearing and statement of allegations against Blackett on January 24, 2011, alleging that Blackett engaged in unregistered trading and illegal distribution of securities and perpetrated a fraud on investors.

23. The remaining balance of approximately \$700,000 in investor funds accepted by NFF was not kept on deposit in a trading account as investors were led to believe. Rather, those funds were used for other purposes, including monthly return and redemption payments to investors, referral fee payments and/or payments to Singh and Martinez.
24. Between January 24, 2009 and October 31, 2009, NFF accepted over \$640,000 from investors but did not make any deposits to any of the Forex Traders. NFF also made monthly return payments to investors totalling approximately \$505,000 during this period despite the fact that it received only approximately \$85,000 from the Forex Traders and did not have any other significant source of funds besides new investor deposits. Investor funds were therefore used to fund at least part of the monthly return payments made during this period.
25. Investors’ principal was not guaranteed, contrary to the representations made to them. NFF accepted approximately \$1.8 million from investors during the Material Time, but only paid back a total of approximately \$704,000 for both monthly returns and redemptions. NFF’s ending bank balance on October 31, 2009 was \$18, at which point payments to investors were suspended and the investment program was terminated. Approximately \$1.1 million in investor principal has not been returned.

**D. The Swaby Investment**

26. During the Material Time, Swaby and Zompas accepted funds from NFF for the purpose of engaging in Forex trading (the “Swaby Investment”). The Swaby Investment was an “investment contract” within the definition of a “security” in section 1(1) of the Act.

27. Between December 2008 and January 2009, Swaby and Zompas accepted approximately \$198,000 from NFF in relation to the Swaby Investment. Swaby and Zompas 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 Swaby and Zompas.
28. 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 Swaby and Zompas received from NFF, approximately \$41,000 was repaid to NFF, directly or indirectly. The remaining balance of approximately \$18,000 was never used for Forex trading, nor was it returned to NFF.

#### **IV. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

29. The specific allegations advanced by Staff are:
  - (a) During the Material Time, the respondents traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so and without an exemption from the dealer registration requirement, contrary to section 25(1)(a) of the Act as that section existed at the time the conduct at issue commenced in April 2008, and contrary to section 25(1) of the Act as subsequently amended on September 28, 2009;
  - (b) During the Material Time, the respondents traded in securities of NFF and/or Swaby and Zompas when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to section 53(1) of the Act;
  - (c) During the Material Time, NFF, Singh and Martinez engaged or participated in acts, practices or courses of conduct relating to securities of NFF that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to section 126.1(b);

- (d) During the Material Time, Singh and Martinez authorized, permitted or acquiesced in NFF's non-compliance with Ontario securities law and accordingly failed to comply with Ontario securities law, contrary to section 129.2 of the Act; and
  - (e) The respondents' conduct was contrary to the public interest and harmful to the integrity of the capital markets in Ontario.
30. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

**DATED** at Toronto, November 1<sup>st</sup>, 2011.