



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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Toronto ON M5H 3S8

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

- AND -

**IN THE MATTER OF TRAPEZE ASSET MANAGEMENT INC.,
RANDALL ABRAMSON AND HERBERT ABRAMSON**

**ORDER
(Sections 127(1) and 127.1)**

WHEREAS on April 20, 2012, 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 respect of Trapeze Asset Management Inc. (“Trapeze”), Randall Abramson (“R. Abramson”) and Herbert Abramson (“H. Abramson”) (collectively, the “Respondents”), in connection with a Statement of Allegations issued by Staff of the Commission (“Staff”) on April 20, 2012 (the “Statement of Allegations”);

AND WHEREAS the Respondents and Staff entered into a Settlement Agreement (the “Settlement Agreement”) in which they agreed to a settlement of the proceeding commenced by the Notice of Hearing dated April 20, 2012, subject to the approval of the Commission;

AND WHEREAS the Respondents have provided an undertaking dated April 20, 2012 (the “Undertaking”);

AND WHEREAS the Commission has reviewed the Notice of Hearing, the Statement of Allegations, the Settlement Agreement and the Undertaking, and has heard submissions from counsel for Staff and counsel for the Respondents;

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

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. pursuant to s. 127(1)6 of the Act, each of the Respondents is hereby reprimanded;
3. pursuant to s. 127(1)4 of the Act, Trapeze shall submit to a review of its practices and procedures by an independent person (the “Consultant”) to be approved by Staff at Trapeze’s expense in accordance with the Terms of Reference attached hereto as Schedule “A”;

4. within 30 days of the Settlement Agreement being approved, Trapeze shall send a written communication to all clients, in a manner and form acceptable to Staff, outlining Trapeze's intention to conduct account reviews per the Terms of Reference attached as Schedule "A", and explaining that the reviews are required by the Commission to ensure that (i) each clients' current KYC information is collected and documented, and (ii) the investments in each client's account(s) are suitable given the client's age, financial circumstances, investment needs and objectives and risk tolerance;
5. Trapeze shall conduct account reviews with all of its clients as soon as reasonably practicable after the approval of the Settlement Agreement in accordance with the Terms of Reference attached as Schedule "A", and shall explain to each client that the review is required because of concerns regarding understatement of risk arising from the Respondents' failure during the Relevant Time to adequately consider factors such as price volatility risk;
6. Trapeze agrees that it shall not increase its fees or take any other steps that would result in its clients bearing any costs or expenses that are incurred by it relating to this Settlement Agreement, including any costs associated with retaining the Consultant;
7. pursuant to s. 127(1)9 of the Act, the Respondents shall, within sixty days of the Settlement Agreement being approved, together pay an administrative penalty of \$1,000,000, for allocation to or for the benefit of third parties pursuant to s. 3.4(2)(b) of the Act; and
8. pursuant to s. 127.1 of the Act, the Respondents, shall within sixty days of the Settlement Agreement being approved, together pay \$250,000 towards the costs of Staff's investigation.

DATED at Toronto this 27th day of April, 2012.

"Mary G. Condon"

Mary G. Condon, Vice-Chair

SCHEDULE “A”

Terms of Reference for a review of Trapeze’s practices and procedures

1. The Consultant shall be appointed promptly following the approval of the Settlement Agreement, but in any event by no later than 30 days following the approval, by mutual agreement between Trapeze Asset Management Inc. (“**Trapeze**”) and Staff of the Commission (“**Staff**”).
2. The Consultant's reasonable compensation and expenses shall be borne exclusively by Trapeze.
3. The agreement with the Consultant (“**Agreement**”) shall be in a form acceptable to Staff and will provide that the Consultant will examine Trapeze’s internal policies, practices and procedures for:
 - a. collecting and documenting clients’ Know Your Client (“**KYC**”) information;
 - b. determining the risk levels for individual securities and portfolios of securities having regard to concentration in specific securities or specific industries, price volatility risk, liquidity risk, default risk and counterparty exposure risk;
 - c. determining and ensuring the suitability of investments for clients based on their KYC information and having regard to the risk considerations set out in paragraph 3(b) above;
 - d. explaining to clients the risks associated with their investments;
 - e. enabling management to oversee Trapeze’s activities in respect of its compliance with its internal policies, practices and procedures, and Ontario securities law;
 - f. preparing and approving marketing materials (including its website and investment letters to clients and marketing material currently used by Trapeze); and
 - g. otherwise ensuring compliance with Ontario securities law in respect of the matters enumerated herein including in particular NI 31-103.

(collectively the “**Review**”)

4. In addition to the Review, the Agreement shall provide that the Consultant and Trapeze together will prepare procedures for:
 - a. opening new client accounts and obtaining each client's KYC information in compliance with any revised practices and procedures resulting from the Review and ensuring that the investments solicited and/or sold to each client are suitable having regard to Ontario securities law and in particular Part 13 of National Instrument 31-103, and where reasonably practicable, Trapeze shall afford the Consultant an opportunity to attend meetings where new client accounts are being opened, and the Consultant shall be present at a select sample of such meetings, as determined in the Consultant's discretion, acting reasonably;
 - b. updating each of Trapeze's existing client's KYC information in compliance with any revised practices and procedures resulting from the Review and ensuring that the investments held by each client are suitable having regard to Ontario securities law and in particular Part 13 of National Instrument 31-103, and where reasonably practicable, each client will be provided an opportunity to meet face to face for the account review and the Consultant shall be present at a select sample of account reviews, as determined in the Consultant's discretion, acting reasonably;
 - c. determining, with the agreement of the Consultant, acting reasonably, that the review of specific accounts as set out in section 4(b) above need not include the explanation required by subparagraph 37(e) of the Settlement Agreement, and
 - d. documenting the results of each account review required by subsections 4(a) and 4(b) above to evidence that the KYC information has been obtained and/or updated and that the suitability analyses have been done.
5. The Consultant shall have reasonable access to all of Trapeze's books and records necessary to complete the Consultant's mandate and the ability to meet privately with Trapeze's officers and employees. Trapeze shall require its officers, directors and employees to cooperate fully with the Consultant with respect to the Review.

6. The Consultant shall make and keep notes of interviews conducted and keep a copy of documents gathered in connection with the performance of his or her responsibilities.
7. The Consultant shall issue a draft report to Trapeze within six months of appointment.
8. The Consultant shall engage in discussions with Trapeze regarding the draft report to get feedback with a view to finalizing the report within one month of the delivery of the draft report (the “**Final Report**”).
9. The Consultant will deliver the Final Report to Trapeze and Staff.
10. The Consultant's draft report and Final Report shall include a description of the review performed, the conclusions reached, and the Consultant's recommendations for any changes or improvements to Trapeze’s policies and procedures that the Consultant reasonably deems necessary to conform to regulatory requirements and best practices, including the reasons for such recommendations, and possible procedures for implementing the recommended changes or improvements.
11. Within 30 days after receipt of the Consultant's Final Report, Trapeze will advise Staff of a timetable to implement any recommendations contained in the Final Report. The timetable shall provide for the implementation of such recommendations within six months of the delivery of the timetable. Trapeze may request the consent of Staff not to implement one or more of the recommendations in the Final Report; if Trapeze so requests, it shall provide Staff and the Consultant with the reasons for its position for each request, and if applicable, any alternative actions, policies or procedures Trapeze would propose to adopt instead.
12. Staff may attend at the premises of Trapeze with respect to implementation of the Consultant’s recommendations.
13. Trapeze shall implement all of the recommendations contained in the Final Report unless Staff consents otherwise.
14. Once completed, Trapeze shall certify to Staff, by certificate executed on its behalf by the Chief Compliance Officer, that Trapeze has implemented the recommendations contained in the Final Report (the “**Trapeze Certificate of Implementation**”).

15. The Consultant shall review the implementation of the recommendations in the Final Report and provide a report on the progress of the implementation to Trapeze and Staff within one month after receipt of the Trapeze Certificate of Implementation.
16. The Consultant's term of appointment shall continue until the Consultant has certified in writing to Trapeze and Staff that all recommendations in the Final Report have been substantially implemented for at least one fiscal quarter (the "**Consultant's Certificate of Completeness**").
17. For the period of engagement and for a period of three years from completion of the engagement, the Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Trapeze, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Consultant is affiliated or of which the Consultant is a member or any person engaged to assist the Consultant in performance of the Consultant's duties under the Settlement Agreement and Commission order not, without prior written consent of Staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Trapeze, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
18. The Consultant shall agree to treat all information obtained from Trapeze relating to its business and clients in confidence, shall maintain the confidentiality of such information, shall not use any such information for any purpose other than the purposes of the Settlement Agreement, and shall not reveal any such information to any person, other than for purposes of fulfilling his or her obligations with respect to the Settlement Agreement. For purposes of this paragraph, information is not confidential, if it has been or is subsequently publicly disclosed, other than by the Consultant or a person who is excluded from being retained or employed by Trapeze under paragraph 17, above.
19. For greater certainty, the terms of the Review do not limit in any respect the authority of Staff to undertake, as part of its normal course activities, a review of all matters within the scope of the Review or any other aspect of Trapeze's business, including obtaining copies of all Consultant's notes and supporting documents.