

Re Englesby & Nishimura

IN THE MATTER OF:

**The Rules of the Investment Industry Regulatory
Organization of Canada (IIROC)**

and

The Universal Market Integrity Rules

and

Teymur Englesby

and

Cale Nishimura

2016 IIROC 40

Investment Industry Regulatory Organization of Canada
Hearing Panel (Pacific District)

Heard: September 15, 2016

Decision: September 15, 2016

Reasons: October 7, 2016

Hearing Panel:

Winton Derby, Q.C., Chair, Johannes van Koll and Brian Worth

Appearances:

Andrew Werbowski, Stacey Robertson, Enforcement Counsel, IIROC

H. Roderick Anderson, Counsel for the Respondents

REASONS FOR DECISION

OVERVIEW

¶ 1 The Staff of Investment Industry Regulatory Organization of Canada (IIROC) and the Respondents entered into Settlement Agreements, which they had negotiated in accordance with Part 3 of The Universal Market Integrity Rules (UMIR) Policy 10-8 and are conditional upon approval by a hearing panel appointed pursuant to IIROC Transitional Rule No. 1, Schedule C.1. After considering the material filed and submissions of counsel, we issued an order accepting the Settlement Agreements.

THE CONTRAVENTIONS

¶ 2 The Respondent TEYMUR ENGLIESBY agreed that while employed as a Registered Representative at PI Financial Corp., he entered orders and executed trades on multiple marketplaces for the shares of

DISCOVERY VENTURES INC. (DVN) in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).

¶ 3 The Respondent CALE NISHIMURA agreed that while employed as an Investment Representative or Registered Representative at PI Financial Corp., he entered orders and executed trades on multiple marketplaces for the shares of DVN in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).

TERMS OF SETTLEMENT

¶ 4 Staff and Mr. Englesby have agreed to the following penalties:

- i. a two month suspension from access to an IIROC-regulated marketplace (from October 22 to December 21, 2016, both inclusive);
- ii. a fine in the amount of \$45,000, payable by the Respondent to IIROC; and
- iii. costs in the amount of \$5,000, payable by the Respondent to IIROC.

¶ 5 Staff and Mr. Nishimura have agreed to the following penalties:

- i. a one month suspension from access to an IIROC-regulated marketplace (from September 16 to October 15, 2016, both inclusive);
- ii. a fine in the amount of \$15,000, payable by the Respondent to IIROC; and
- iii. costs in the amount of \$5,000, payable by the Respondent to IIROC.

THE CIRCUMSTANCES

¶ 6 The circumstances as they relate to Messrs. Englesby and Nishimura are set out in detail in paragraphs 1 to 22 in Appendix "A" of the Settlement Agreement between IIROC and the Respondents and are attached as Exhibit 1 to these Reasons.

¶ 7 The contraventions result from the trading activity in securities of DVN between September 18, 2012 and January 23, 2013. Mr. Englesby was the broker of record for the client accounts and Mr. Nishimura was his assistant. Mr. Englesby was first employed in the securities industry as a Registered Representative in January 2005, and Mr. Nishimura in July 2012, as an Investment Representative.

During the period, the Respondents entered orders and executed trades in the Client Accounts that may have maintained and supported the price at a level predetermined by the clients, and thereby may have created an artificial price for the securities. The Client Accounts were controlled by individuals whom the Respondents ought to have known may have been acting in a collective manner to increase the share price in the period.

The Respondents also entered orders and executed trades in shares of DVN for the Client Accounts causing numerous upticks, or price increases, in the share price.

The trading in the Client Accounts may have had the effect of raising the price of DVN shares so that the exercise of certain share purchase warrants was economically feasible. The exercise of the share purchase warrants resulted in cash proceeds to DVN, which were then used to further a mining development project in which one of the Client Account holders had an interest.

The Respondents should have known of their gatekeeper obligation to be alert to potentially manipulative and deceptive activity and ought to have known that the orders and trades might reasonably be expected to create an artificial price for shares of DVN.

The settlement agreements do not indicate that the Respondents had direct knowledge of any potentially manipulative trading activity; rather the respondents have violated the objective component of UMIR 2.2 that they "ought to have known" that the entry of the orders or the execution of the trades "could reasonably be expected to create" an artificial price for the securities.

ROLE OF HEARING PANEL ON SETTLEMENT HEARINGS

¶ 8 The hearing panel in Re: Milewski [1999] I.D.A.C.D. No. 17 stated:

"A District Council considering a settlement agreement will tend not to alter a penalty that is considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness. Put another way, the District council will reflect the public interest benefits of the settlement process in its consideration of specific settlements."

In Re: Clark [1999] I.D.A.C.D. No. 40 the panel said:

"In considering a settlement under By-Law 20.26 the panel should not simply substitute its discretion for that of staff who negotiated the settlement. The panel must be cognizant of the importance of the settlement process and should not interfere lightly in a negotiated settlement. In our view, as a result, panels must also be careful in using previous settlements as precedent. The settlement process is one of negotiation and compromise and the penalty imposed following a settlement will often be less onerous than one imposed following a hearing where similar findings are made."

As stated in Re: Deutsche Bank Securities Ltd. 2013 IIROC 07:

"It is clear from jurisprudence emanating from the courts and from Hearing Panels of IIROC, Investment Dealers Association and the Mutual Fund Dealers Association, that our task is not to decide whether, in this case, we would have arrived at the same decision as that reached by the parties. Rather, our duty is to determine whether the penalty is a reasonable one and that it meets the objectives of the disciplinary process which are to maintain the integrity of the investment industry."

In Re Questrade and Eydelman 2013 IIROC 25 the panel said:

"There really is only one key question for a panel in a settlement hearing and that is whether the settlement agreement is within the parameters of acceptability as far as sanctions are concerned. If they are, then the panel should approve the agreement."

PENALTIES

¶ 9 We were referred to the IIROC Sanction Guidelines February 2, 2015 and previous decisions to assist us in determining whether the agreed upon sanctions are within a reasonable range.

The Sanction Guidelines emphasized by IIROC Counsel are:

"A suspension should be considered where:

- There has been one or more serious contravention;
- The misconduct in question has caused some measure of harm to investors, the integrity of the marketplace or the securities industry as a whole".

In addition to these general principles, the following factors were considered in determining sanctions:

- a. The number, size and character of the transactions at issue (there were numerous orders

entered during the relevant period);

- b. Whether the Respondents engaged in numerous acts and/or a pattern of misconduct (the Respondents committed one UMIR violation which involved the entry of multiple orders);
- c. Whether the Respondents engaged in the misconduct over an extended period of time (the Relevant Period is four months and one week);
- d. Whether the misconduct was intentional, willfully blind, or reckless with respect to regulatory requirements (the Respondents conduct was not intentional, however it is a violation of an objective "ought to have known" standard);
- e. Extent of harm to market integrity or the reputation of the marketplace (after PIFC required the Client Accounts to be closed, the share price of DVN declined);
- f. The Respondents' relevant disciplinary history (neither Respondent has a disciplinary record);
- g. Extent of harm to clients or other market participants (there are no client complaints, nor is there any evidence of specific client harm or losses); and
- h. In the case of Mr. Nishimura, his relatively junior status and lesser industry experience.

¶ 10 The previous settlement cases referred to by counsel were:

- i. In the matter of Francesco Mauro and Scott Fraser Harding;
- ii. In the matter of Margaret Alice Coleman and Judy Gail Koochin;
- iii. In the matter of David Charles Parkinson;
- iv. In the matter of Martin Fabi.

¶ 11 In this case, the parties had the benefit of experienced and competent counsel in reaching the negotiated resolutions.

¶ 12 Considering the facts of this case, the IIROC Sanction Guidelines and the settlement cases referred to above, we are satisfied that the sanctions agreed to are within an acceptable range.

¶ 13 We accept the settlement agreed to.

Dated at Vancouver, British Columbia, this 7th day of October, 2016.

Winton Derby

Chair

Johannes van Koll

Brian Worth

Exhibit 1

APPENDIX "A"

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA**

AND

THE UNIVERSAL MARKET INTEGRITY RULES

AND

TEYMUR ENGLLESBY

AND

CALE NISHIMURA

STATEMENT OF ALLEGATIONS

I. REQUIREMENTS CONTRAVENED

1. IIROC Staff alleges that Teymur Englesby (“Englesby”) has committed the following contravention:
 - (i) The Respondent Englesby, while employed as a Registered Representative at PI Financial Corp. (“PIFC”), entered orders and executed trades on multiple marketplaces for the shares of Discovery Ventures Inc. (“DVN”) in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).
2. IIROC Staff alleges that Cale Nishimura (“Nishimura”), has committed the following contravention:
 - (i) The Respondent Nishimura, while employed as an Investment Representative or Registered Representative at PIFC, entered orders and executed trades on multiple marketplaces for the shares of DVN in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).
3. Englesby and Nishimura are, as the context may require, referred to collectively as “the Respondents”.
4. The text of the relevant Requirements is set out in Schedule “A” hereto.

II. RELEVANT FACTS AND CONCLUSIONS

OVERVIEW

5. In January 2013, PIFC filed a gatekeeper Report (the “PIFC Gatekeeper Report”) with the B.C. Securities Commission. The PIFC Gatekeeper Report outlined concerns about trading activity in certain client accounts (the “Client Accounts”) in shares of DVN.
6. IIROC Staff investigated the matters raised in the PIFC Gatekeeper Report and the trading activity in DVN between September 18, 2012 and January 23, 2013 (the “Relevant Period”).
7. In the Relevant Period, Englesby was the broker of record for the Client Accounts and Nishimura was his assistant.
8. During the Relevant Period, the Respondents entered orders and executed trades in the Client Accounts that may have maintained and supported the price at a level predetermined by the clients,

and thereby may have created an artificial price for the securities. The Client Accounts were controlled by individuals whom the Respondents ought to have known may have been acting in a collective manner to increase the share price in the Relevant Period.

9. During the Relevant Period, the Respondents entered orders and executed trades in shares of DVN for the Client Accounts causing numerous upticks, or price increases, in the share price.
10. The trading in the Client Accounts may have had the effect of raising the price of DVN shares so that the exercise of certain share purchase warrants was economically feasible. The exercise of the share purchase warrants resulted in cash proceeds to DVN which were then used to further a mining development project in which one of the Client Account holders had an interest.
11. The Respondents should have known of their gatekeeper obligation to be alert to potentially manipulative and deceptive activity. The Respondents ought reasonably to have known, that the orders and trades might reasonably be expected to create an artificial price for shares of DVN.

BACKGROUND

Discovery Ventures Inc.

12. DVN is a natural resource company engaged in the acquisition and exploration of mining properties. It commenced trading on the TSX Venture Exchange on 30 October 2009. At the beginning of the Relevant Period, DVN's share capital consisted of 20,242,418 issued and outstanding shares. The following individuals were its Directors and Officers:

Individual	Position
Akash Patel	President, Chief Executive Officer and Director
Kenneth Phillippe	Chief Financial Officer, Secretary and Director
Neil H. Morgan	Director
Matt Wayrynen	Director

13. The following table outlines a chronology of relevant corporate events for DVN in 2010 and 2012:

Date	Event
09 September 2010	DVN announces a private placement of up to 5 million units at \$0.12 per unit. Each unit consists of the following: <ul style="list-style-type: none"> • One common share • One share purchase warrant • The share purchase warrant has a two year term, exercisable at \$0.20 to obtain one equivalent free trading DVN share
19 October 2012	DVN private placement closes with 4,999,991 units issued for gross proceeds of \$600,000. Expiration date for exercise of the warrants is confirmed as October 15, 2012
28 June	Akash Patel is appointed as DVN's new President and Chief

Date	Event
2012	Executive Officer. He was originally named to DVN's Board of Directors in September 2010.
17 August 2012	Matt Wayrynen is appointed to DVN's Board of Directors. Concurrent with this news release, the resignation of Garth Braun from DVN's Board of Directors is announced.
18 October 2012	DVN announces it has signed a Letter of Intent (the "Willa LOI") to enter into negotiations and to complete technical due diligence with the intent of acquiring up to an 80% interest in the mineral claims located near Silverton, BC.
24 October 2012	DVN receives proceeds of \$679,866 from the exercise of 3,399,331 warrants due on or before 15 October 2012.
19 November 2012	DVN enters into a definitive option agreement to acquire up to an 80% interest in the Willa Property.
26 November 2012	DVN announces a private placement of up to 8 million units at a price of \$0.25/unit. Each unit consists of the following: <ul style="list-style-type: none"> • One common share • One share purchase warrant • The share purchase warrant has a five-year term, and contains various exercise prices of \$0.35-0.45 (the cost to exercise these warrants increases steadily over the first three years after the closing of the private placement)

Registration Matters

14. PIFC is registered as an investment dealer, is a Participating Organization of the Toronto Stock Exchange (the TSX), a Member of the TSXV, and therefore, a Participant under UMIR.
15. Englesby was first employed in the securities industry in January 2005 as a Registered Representative. Nishimura was first employed in the securities industry in July 2012 as an Investment Representative and, as of November 2012, as a Registered Representative. The Respondents are currently employed by PIFC.

The Clients and Relationship with the Respondents

16. The following table represents the individual account holders who were identified in the PIFC

Gatekeeper Report:

Account	Risk Level	Net Worth	Authorized Signatory	Trading Authority
Investor A	100% High Risk	\$8 Million	n/a	None
Investor B	100% High Risk	\$7 Million	n/a	None
P. Capital Corp.	100% High Risk	Greater than \$1 Million	Investor A (100% Owner)	None
***111 BC Ltd.	100% High Risk	\$620,000	Investor C (100% Owner)	None

17. Investor A and Investor B are spouses. Investor C, the authorized signatory for ***111 BC Ltd., is the grandfather of Investor A.
18. Englesby acknowledged that he has a close personal relationship with the clients Investor A and Investor B and also the president of DVN, all of whom he has known for over 20 years. Investor A is a former registrant and Englesby inherited many of Investor A's former clients upon the latter's resignation from the securities industry in 2007.
19. Nishimura also knew the clients Investor A and Investor B for in excess of 15 years. He was also a director of DVN from November 17, 2010 to February 28, 2012.
20. The Respondents entered numerous orders to buy and sell shares of DVN for the Client Accounts in the Relevant Period. Specifically, over the 88 trading days in the Relevant Period, Englesby entered 436 orders and Nishimura entered 408 orders for the Client Accounts in DVN shares¹. Each order was unsolicited, but the Respondents did not make inquiries that were adequate under the circumstances to determine the economic purpose for the large volume of transactions.
21. In addition, when Investor C transacted in DVN shares for ***111 BC Ltd., Investor A initiated and participated in the telephone call to the Respondents. There were no independent calls from Investor C to either of the Respondents.
22. Furthermore, the Client Accounts did not fund the purchases by depositing funds to pay for the purchases. Instead, the Client Accounts sold DVN shares into the market to reduce the debits that accrued from the purchases. At each month end from October to December 2012, the Client Accounts had large debits in relation to purchases of DVN shares. After the executions of large sales at month-end, significant quantities were re-purchased shortly thereafter.
23. On January 17, 2013, DVN released an Information Circular for its upcoming shareholder meeting. In that document, DVN identified Investor A as the owner of both P. Capital Corp. and ***111 BC Ltd. and also identified Investor A as a party to the Willa LOI. Investor A accordingly had an interest in a higher price for DVN shares because a portion of his compensation as a party to the Willa Property transaction was in the form of DVN shares, although the Respondents were unaware that Investor A was a party to the Willa LOI, or that he had become the beneficial owner of ***111 BC Ltd. until the release of the Information Circular.

¹ Englesby entered 347 buy orders and 89 sell orders, and Nishimura entered 369 buy orders and 39 sell orders

24. At the end of January 2013, shortly after PIFC filed the PIFC Gatekeeper Report, compliance staff at PIFC required the Client Accounts to be closed and this was done by February 2013. Trading activity and the price of DVN shares declined thereafter.

DVN TRADING ACTIVITY

Trends Prior to the Relevant Period

25. In the seven months preceding the Relevant Period, DVN shares traded in a range between \$0.12 and \$0.26 per share. The volume of trading ranged from 274,180 shares per month to just over 1,000,000 shares per month. On several trading days there was no trading volume at all.
26. After trading between \$0.185 and \$0.26 in February and March 2012, DVN's share price weakened slightly in April 2012 with the shares trading as low as \$0.165 on lower monthly trading volume. DVN's shares traded in a range between \$.012 and \$0.185 over the period from May to August, 2012, closing at \$0.15 on August 31, 2012. Over the May to August 2012 period, DVN's shares traded on just over half of the available trading days.
27. From April 25, 2012 there were no news releases relating to DVN other than the appointment of two new directors, until October 17, 2012 when the Willa LOI transaction was publicly announced.
28. The chart below summarizes the trading activity in DVN shares from January 2012 to January 2013:

Period	High Price (\$)	Low Price (\$)	Closing Price (\$)	Volume	# of Trading Days with No Volume
Jan. 2012	0.250	0.190	0.210	1,161,333	5
Feb. 2012	0.260	0.185	0.200	1,072,419	2
Mar. 2012	0.235	0.190	0.230	484,374	5
Apr. 2012	0.225	0.165	0.165	274,180	9
May 2012	0.185	0.130	0.150	684,500	13
Jun. 2012	0.180	0.130	0.155	684,560	8
Jul. 2012	0.165	0.120	0.160	717,500	13
Aug. 2012	0.150	0.130	0.150	1,082,500	11
Sep. 1-17, 2012	0.160	0.130	0.160	145,000	3
Sep. 18-30, 2012 ²	0.200	0.150	0.200	489,000	4
Oct. 2012	0.310	0.200	0.270	13,717,741	0
Nov. 2012	0.355	0.265	0.310	8,711,360	0
Dec. 2012	0.430	0.285	0.400	11,278,249	0
Jan. 2013	0.410	0.265	0.305	8,279,361	0

Overall Trading in the Relevant Period

² September 18, 2012 is the first date that ***111 BC Ltd. began to increase the share price

29. During the period September 2012 to January 2013, PIFC was responsible for approximately 32.7% of the buy volume and 38.5% of the sell volume of DVN shares. In turn, the Client Accounts were responsible for approximately 60% of PIFC's buy volume and approximately half of its sell volume. The Client Accounts were the largest buyers and sellers of DVN shares in the marketplace. The Respondents placed 844 orders for the Client Accounts during the Relevant Period.
30. The Trading Activity comprises three different phases within the Relevant Period.

Phase 1: Trading Before the Expiration of the \$0.20 share Purchase Warrants (September 18 – October 12, 2012)

31. From September 18 to October 12, 2012, there were a total of 64 upticks in DVN shares. PIFC was responsible for 34 (53.1%) of these upticks. In turn, the Client Accounts were responsible for 29 (85.3%) of the PIFC upticks.
32. On September 18, the Client Accounts entered a buy order that increased DVN's share price from \$0.16 to \$0.20, the same price as the exercise price of the share purchase warrants. Over the period from September 28 to October 12, 2012, Englesby entered other purchase orders for the Client Accounts that increased the share price above \$0.20 and which, along with purchase orders from other market participants at prices of \$0.20 or above, made the exercise of the share purchase warrants economically viable.
33. These transactions are summarized in Table 1 of Schedule "B" which identifies 23 active buy orders for the Client Accounts between September 18 and October 12, 2012.
34. Twelve of Englesby's clients held \$0.20 share purchase warrants in their respective PIFC trading accounts as of September 2012.
35. Table 2 of Schedule "B" summarizes the sales by nine holders of share purchase warrants and the interaction of trading activity in the Client Accounts. The transactions are described below in paragraphs 37 – 50.
36. During the first few weeks of September 2012, DVN shares traded in a range of \$0.13-0.16. On September 18, Nishimura entered an active unsolicited order to purchase 5,000 DVN shares for ***111 BC Ltd. which resulted in a trade at \$0.20. This trade was a \$0.04 uptick, or price increase, from the previous trade at \$0.16. DVN shares had not traded at \$0.20 or higher since April 2012.
37. Over the next four trading days (19-24 September), Englesby or Nishimura did not enter any new orders for any of the Client Accounts to purchase DVN shares. There were no trades in the marketplace over this time. When trades occurred again between September 25 and 27, DVN shares traded in a range of \$0.15–0.175 per share.
38. On September 28, the last day of trading of the month, Nishimura purchased shares for P Capital Corp. which resulted in a trade at \$0.20, a \$0.02 uptick in the last two hours of the trading session. From the time of P Capital Corp.'s uptick trade until the close of the trading day, other buyers at PIFC and three other dealers purchased 106,000 shares of DVN at \$0.20. During September 2012, Englesby and Nishimura entered 58 buy orders for various clients under their administration to purchase DVN shares. However, the purchases for ***111 BC Ltd. and P Capital Corp on September 18 and 28 are the only orders that contained limit prices as high as \$0.20.
39. On October 1, there were no trades in DVN shares until Nishimura purchased shares for Investor A's personal account. This order contained a limit price of \$0.22 and increased the share price to the specified limit of \$0.22. In addition to producing an uptick of \$0.02, the \$0.20 share purchase

warrants now traded in-the-money at this price level. Approximately ten minutes later, Englesby entered a sell order for A Holdings, a holder of \$0.20 share purchase warrants, to sell 300,000 shares at \$0.225, just \$0.005 higher than the most recent trade by Investor A at \$0.22. The sell order was cancelled less than 43 minutes later, DVN's share price declined to \$0.20 in subsequent trading.

40. On October 2, DVN shares traded at \$0.20 before Nishimura purchased shares for Investor A's personal account that increased the share price to \$0.21. Less than two minutes after Investor A's purchase, DVN shares traded at \$0.21 and \$0.215 in purchases by another dealer. Less than an hour later, when the best bid for DVN was \$0.20 (by another dealer), Englesby entered a sell order for KM to sell her DVN shares³ at \$0.205.
41. After the shares offered for KM had been purchased at \$0.205 by other dealers on the afternoon of October 2, Englesby entered a sell order for ME, a relative, to sell DVN shares at \$0.205 based on her ownership of \$0.20 share purchase warrants. After most of ME's shares had been sold to other dealers at \$0.205, the price of DVN shares declined to \$0.20 as a result of a sell order from an unrelated PIFC account. Shortly afterward, a purchaser at another dealer upticked DVN's price to \$0.205, after which Englesby entered a buy order for Investor A's personal account that resulted in Investor A acquired 5,500 shares at \$0.205 from ME.
42. On October 3, Englesby entered an order to sell shares for A Holdings based on its ownership of \$0.20 share purchase warrants. This order was executed in various parts over the trading day at \$0.22. Less than 45 seconds after the completion of the sell order for A Holdings, Englesby entered orders for ***111 BC Ltd. to purchase DVN shares at \$0.225 and \$0.23. Over the remainder of the session, several dealers, including PIFC, purchased DVN shares at prices from \$0.215 to \$0.23. During that period, Englesby completed three additional purchases for ***111 BC Ltd. that each produced upticks in DVN's share price to either \$0.225 or \$0.23.
43. On October 5, Englesby entered a sell order late in the session for C F Holdings to sell 375,000 shares based on its ownership of \$0.20 share purchase warrants. This order contained a limit price of \$0.23 and received a fill of 112,000 on that day.
44. On the next trading day, October 9, DVN traded at prices from \$0.21 to \$0.225. Englesby amended the limit price of the sell order for C F Holdings from \$0.23 to \$0.22 in the mid-afternoon and the C F Holdings account was able to sell 237,000 DVN shares at that price over the balance of the trading day. Over the course of the day, Nishimura entered orders for the Client Accounts⁴ that resulted in trades that increased DVN's share price to \$0.215 or \$0.22 on five occasions, with three of these uptick trades occurring in the last 30 minutes of trading, with the final order just three minutes before the close.
45. On October 10, 26,000 shares of the sell order for C F Holdings remained unfilled at the amended limit price of \$0.22. At the opening of trading, DVN shares traded at \$0.215. Nishimura completed a purchase for P Capital Corp. at 9:33 that increased the trading price to \$0.22 and resulted in the purchase by P Capital Corp. of 13,000 shares from C F Holdings. Ten minutes later, the remaining 13,000 shares on C F Holding's sell order were purchased at \$0.22 by two other dealers.
46. By October 11, with just three trading days remaining before the expiration of the \$0.20 share

³ KM held 55,000 DVN shares long in her account at the time of this sale. The proceeds from selling the shares at \$0.205 were used to exercise the 50,000 share purchase warrants into 50,000 DVN shares.

⁴ One order for Investor B and two orders for P Capital Corp.

purchase warrants, DVN shares opened at \$0.225 and traded between \$0.22 and \$0.23 for most of the trading day. In the final fifteen minutes of the session, Englesby entered buy orders for P Capital Corp. that increased the share price from \$0.22 to \$0.23. Less than eight minutes⁵ after the P Capital Corp. purchase at \$0.23, Englesby entered three consecutive sell orders⁵ for holders of \$0.20 share purchase warrants to sell their DVN shares at a limit price of \$0.22. The aggregate share quantity of the three sell orders was 1.83 million shares. The first two orders were filled immediately upon entry, receiving fills for 1.08 million DVN shares at \$0.22. The third order was filled in its entirety within three minutes of entry for 750,000 shares at \$0.22. Of the 1.83 million shares sold for the warrant holders at \$0.22 per share, 350,000 shares were purchased by Investor B and P Capital Corp., 270,000 were purchased by other PIFC clients and the remaining 1.21 million shares were purchased by other dealers.

47. Just 17 seconds after the completion of the third sell order, Nishimura entered an order for ***111 BC Ltd. that led to purchases at \$0.225 and \$0.23 with less than 2.5 minutes remaining before the close. With 70 seconds remaining before the close, Englesby entered an order for P Capital Corp. that led to purchases at \$0.23 and then \$0.235, which was both the high and the closing price for the day.
48. On October 12, Englesby entered sell orders for TR and JR based on their holdings of \$0.20 share purchase warrants. The Client Accounts increased the price of DVN shares before the execution of each of these sell orders. Prior to executing the sell order for TR, Englesby purchased shares for P Capital Corp. which increased the price of DVN shares from \$0.235 to \$0.24. This was the day's high at that time. After a number of purchases at \$0.24 by other market participants, Englesby entered a sell order for TR with a limit price of \$0.24. Moments after the completion of the first sell order, Englesby completed two consecutive purchases for the Client Accounts⁶ that increased the price of DVN shares to \$0.245 and then \$0.25, which were session highs at that time. Other market participants increased the share price to \$0.265 before Englesby entered the sell order for JR at \$0.255.

Phase 2: Trading after the Share Purchase Warrant Expiry (October 15 to December 7, 2012)

49. From October 15 to December 7, 2012, the Client Accounts continued to demonstrate an impact on the price of DVN shares.
50. PIFC was the PO responsible for the largest number of price increases from October 15 to December 7, 2012. The Client Accounts were responsible for 68 upticks, or 64.8% of PIFC's total price increases in this period. The Client Accounts were responsible for Buy Volume of 3,708,834 shares and Sell Volume of 4,504,500 shares.
51. A review of the upticks involving the Client Accounts from October 15 to December 7 reveals that significant portions of these price increases occurred surrounding corporate events by DVN during this time.
52. After increasing the share price numerous times during the various exercises of \$0.20 share purchase warrants in Phase 1, the Client Accounts made other trades that increased the share price in the days that followed. Specifically, the Client Accounts were responsible for 16 purchases⁷ from

⁵ DO (330,000 shares), JM (750,000 shares) and KDB Investments (750,000 shares)

⁶ One order for Investor A and one order for P Capital Corp.

⁷ Englesby entered 6 of these orders and Nishimura entered 10

October 15 – 19 that increased the share price. On October 19, the day after the announcement of the Willa LOI, Englesby completed a purchase for ***111 BC Ltd. that increased the share price to \$0.30. This was not only a new high for the day to that point, but also the year high price for DVN shares in 2012, although other dealers made subsequent purchases on October 19 at \$0.30, \$0.305 and \$0.31.

53. DVN also announced a subsequent financing in late November (the “November 2012 Private Placement”) and increased the shares offered in this financing over the first week of December 2012. The Client Accounts increased the share price on each day following the announcement of an increase to the units offered in the financing. On December 3, after the first announcement of an increase in the size of the private placement, the Client Accounts were the first to buy DVN at \$0.33, although other dealers acquired shares at \$0.33 and \$0.34 later in the day. On December 5, after the announcement of the second increase in the private placement, the Client Accounts made two purchases at \$0.335 on upticks, although other dealers purchased shares that day at \$0.335 and \$0.34 on upticks that day. On December 7, following the issuance on December 6 of a TSXV notice of acceptance of the filing of the private placement, the Client Accounts twice upticked the share price to \$0.34, although other dealers purchased shares at \$0.34 before and after those trades, as well as at prices higher than \$0.34 later in the day.
54. Table 3 in Schedule “B” contains 54 purchases entered by the Respondents (30 by Englesby and 24 by Nishimura) for the Client Accounts during the Phase 2 time period that contributed to a price increase for DVN shares.

Phase 3: Trading Over the Remainder of the Relevant Period (December 10, 2012 to January 23, 2013)

55. From December 10, 2012 to January 23, 2013, the Client Accounts continued to have some impact on the price of DVN shares. PIFC was the PO responsible for the largest number of price increases from December 10, 2012 to January 23, 2013. The Client Accounts were responsible for 80 up-ticks, or 80.0% of PIFC’s total price increases in this period. Their upticks as a group represent the highest quantity of price increases in the marketplace, as was the case in Phases 1 and 2. The Client Accounts had a buy volume of 2,922,500 shares and a sell volume of 2,155,500 shares of DVN.
56. After the announcement of the closing of the November 2012 Private Placement financing on December 7, the Client Accounts continued to enter orders that affected the share price of DVN. On December 14, the Client Accounts were the first to buy shares at \$0.405 and \$0.415, although other market participants also purchased shares from \$0.405 to \$0.42 on that day. Purchases in the Client Accounts resulted in further upticks in the days that followed. Table 4 in Schedule “B” describes 52 purchases by the Client Accounts (24 on orders entered by Englesby and 28 on orders entered by Nishimura) during the period from December 10 to January 23 that produced a price increase. Orders entered for the Client Accounts resulted in at least one uptick trade on 24 of the 30 trading days of the period.

RESPONDENTS’ KNOWLEDGE

57. The Respondents ought reasonably to have known that the orders and trades entered and executed on behalf of the Client Accounts might reasonably be expected to create an artificial price for DVN shares during all three phases of the Relevant Period.
58. The pattern and method of trading conducted through the Respondents by the Client Accounts for the shares of DVN ought to have alerted the Respondents to the possibility that the trading was intended to establish, maintain or support an artificial price for the securities. That should have caused the Respondents to exercise greater caution in the acceptance and handling of orders for the Client

Accounts and to have made more diligent inquiries of the account holders to ensure that the orders and transactions were entered for proper purposes. Factors that ought to have caused the Respondents to exercise greater diligence in their roles as gatekeepers include::

- (i) The Client Accounts were the only account holders under Englesby's administration that increased the share price to the \$0.20 level in September 2012;
- (ii) The Client Accounts were the only account holders under Englesby's administration that increased the share price above the \$0.20 level from October 1 – 12, 2012. These trades, along with trades by other market participants at prices at or about \$0.20 helped to make the exercise of the DVN share purchase warrants economically feasible;
- (iii) On October 3, Englesby entered a 500,000 share bid for P Capital Corp to purchase shares at \$0.21. This bid was below the prevailing best bid price of \$0.22 at the time of its entry, but was sufficiently large in quantity that the bid exceeded the entire amount of shares offered in the order book at the time of its entry. In other words, if all of the booked sell orders in the market at that time converted to market sell orders, the share purchase warrants would still remain in the money;
- (iv) The Client Accounts received fills on a significant quantity of DVN shares based on the entry of passive limit orders that did not trade immediately. On several occasions, as these orders executed, the Respondents immediately entered orders for the Client Accounts that increased the share price;
- (v) Investor A held 58,333 share purchase warrants in his trading account with Englesby. All but 333 of these share purchase warrants were allowed to expire. Investor A purchased shares at higher prices in the market instead of exercising his contractual right with the issuer to purchase 58,000 DVN shares at \$0.20;
- (vi) The Willa LOI was announced in Phase 2. The Respondents entered orders for the Client Accounts that increased the share price in the days leading up to and after this announcement;
- (vii) The private placement financing was announced in Phase 2. The Respondents entered orders for the Client Accounts that increased the share price each day after DVN announced increases to the number of units offered in the financing;
- (viii) In Phase 3, the Respondents executed 19 purchases in the Client Accounts in which the bid price or quantity exceeded the best displayed bid quantity on the TSX Venture Exchange;
- (ix) In Phase 3, over 60% of the shares purchased by the Client Accounts increased the share price or attempted to increase the share price; and
- (x) Although the trading of the Client Accounts in DVN was economic overall, the Client Accounts did not fund the purchases of DVN shares by depositing funds to pay for the purchases. Instead, the Client Accounts sold DVN shares into the market to reduce the debits that accrued from the purchases. At each month-end from October to December 2012, the Client Accounts had large debits in relation to purchases of DVN shares. After the executions of large sales at month-end, significant quantities were re-purchased shortly thereafter. These month end debit reduction trades facilitated the trading by enabling it to continue without the necessity for any new cash deposits by the Client Accounts.

III. CONCLUSION

59. The purpose of UMIR 2.2 and Policy 2.2 is to protect the marketplace from manipulative and deceptive trading activity and artificial pricing, which undermine the integrity of the marketplace and erode investor confidence.
60. The Respondents had a gatekeeper obligation to be aware of, and alert to potentially manipulative and deceptive activity. The Respondents ought reasonably to have known that the orders and trades on behalf of the Client Accounts might reasonably be expected to create an artificial price for the securities.

July , 2016 INVESTMENT INDUSTRY
REGULATORY ORGANIZATION OF CANADA

Suite 2800, 1055 West Georgia Street
Vancouver BC

SCHEDULE "A"

EXCERPTS FROM THE UNIVERSAL MARKET INTEGRITY RULES

2.2 *Manipulative and Deceptive Activities*

...

- (2) *A Participant or Access Person shall not, directly or indirectly, enter an order or execute a trade on a marketplace if the Participant or Access Person knows or ought reasonably to know that the entry of the order or the execution of the trade will create or could reasonably be expected to create:*
- (a) *a false or misleading appearance of trading activity in or interest in the purchase or sale of the security; or*
 - (b) *an artificial ask price, bid price or sale price for the security or a related security."*

POLICY 2.2. - MANIPULATIVE AND DECEPTIVE ACTIVITIES

Part 2 False or Misleading Appearance of Trading Activity or Artificial Price

For the purposes of subsection (2) of Rule 2.2 and without limiting the generality of that subsection, if any of the following activities are undertaken on a marketplace and create or could reasonably be expected to create a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection (2) of Rule 2.2:

...

- (c) *making purchases of, or offers to purchase, a security at successively higher prices or in a pattern generally of successively higher prices;*

...

- (e) *entering an order or orders for the purchase or sale of a security to:*
 - (i) *establish a predetermined sale price, ask price or bid price,*
 - (ii) *effect a high or low closing sale price, ask price or bid price, or*
 - (iii) *maintain the sale price, ask price or bid price within a*

predetermined range;

- (f) *entering an order or a series of orders for a security that are not intended to be executed;*

...

If persons know or ought reasonably to know that they are engaging or participating in these or similar types of activities those persons will be in breach of subsection (2) of Rule 2.2 irrespective of whether such activity results in a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price for a security or a related security.

Part 3 Artificial Pricing

For the purposes of subsection (2) of Rule 2.2, an ask price, bid price or sale price will be considered artificial if it is not justified by real demand or supply in a security. Whether or not a particular price is “artificial” depends on the particular circumstances.

Some of the relevant considerations in determining whether a price is artificial are:

- (a) *the prices of the preceding trades and succeeding trades;*
- (b) *the change in the last sale price, best ask price or best bid price that results from the entry of the order on a marketplace;*
- (c) *the recent liquidity of the security;*
- (d) *the time the order is entered and any instructions relevant to the time of entry of the order; and*
- (e) *whether any Participant, Access Person or account involved in the order:*
 - (i) *has any motivation to establish an artificial price, or*
 - (ii) *represents substantially all of the orders entered or executed for the purchase or sale of the security.*

The absence of any one or more of these considerations is not determinative that a price is or is not artificial.”

SCHEDULE “B”

Table 1 - Active Buy Orders for the Client Accounts (Phase 1: September 18 to October 12, 2012)

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	18 Sept	13:50:32	5,000 @ \$0.200	***111 BC Ltd.	Englesby	5,000 @ \$0.200	\$0.040	1
2	28 Sept	14:07:02	15,000 @ \$0.200	P Capital Corp.	Nishimura	13,000 @ \$0.190 2,000 @ \$0.200	\$0.020	2
3	01 Oct	11:39:06	21,000 @ \$0.220	Investor A	Nishimura	20,000 @ \$0.200 1,000 @ \$0.220	\$0.020	1
4	02 Oct	12:36:55	5,000 @ \$0.210	Investor A	Nishimura	5,000 @ \$0.210	\$0.010	1
5	02 Oct	13:50:04	50,000 @ \$0.205	Investor A	Englesby	50,000 @ \$0.205	\$0.005	1
6	03 Oct	12:21:32	5,000 @ \$0.230	***111 BC Ltd.	Englesby	3,000 @ \$0.225	\$0.010	3

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
						2,000 @ \$0.230		
7	03 Oct	12:46:31	5,000 @ \$0.230	***111 BC Ltd.	Englesby	5,000 @ \$0.230	\$0.015	1
8	03 Oct	15:45:20	10,000 @ \$0.230	***111 BC Ltd.	Englesby	10,000 @ \$0.225	\$0.005	1
9	04 Oct	14:20:54	10,000 @ \$0.230	***111 BC Ltd.	Englesby	10,000 @ \$0.230	\$0.005	1
10	05 Oct	14:35:36	50,000 @ \$0.230	Investor B	Englesby	50,000 @ \$0.230	\$0.005	1
11	09 Oct	10:56:56	25,000 @ \$0.225	Investor B	Nishimura	25,000 @ \$0.220	\$0.005	1
12	09 Oct	13:04:46	25,000 @ \$0.220	Investor B	Nishimura	19,000 @ \$0.220	\$0.005	1
13	09 Oct	14:50:41	25,000 @ \$0.220	Investor B	Nishimura	25,000 @ \$0.220	\$0.010	1
14	09 Oct	15:37:16	50,000 @ \$0.220	P Capital Corp.	Nishimura	50,000 @ \$0.215	\$0.005	1
15	09 Oct	15:56:48	50,000 @ \$0.220	P Capital Corp.	Nishimura	27,000 @ \$0.215 23,000 @ \$0.220	\$0.010	2
16	10 Oct	09:33:27	28,000 @ \$0.220	P Capital Corp.	Nishimura	28,000 @ \$0.220	\$0.005	1
17	10 Oct	13:50:30	25,000 @ \$0.225	P Capital Corp.	Nishimura	24,000 @ \$0.220 1,000 @ \$0.225	\$0.005	1
18	11 Oct	15:45:56	10,000 @ \$0.230	P Capital Corp.	Englesby	9,500 @ \$0.225 500 @ \$0.230	\$0.010	2
19	11 Oct	15:57:33	50,000 @ \$0.230	***111 BC Ltd.	Nishimura	20,000 @ \$0.225 30,000 @ \$0.230	\$0.010	2
20	11 Oct	15:58:50	50,000 @ \$0.235	P Capital Corp.	Englesby	20,500 @ \$0.230 25,000 @ \$0.235	\$0.005	1
21	12 Oct	11:38:28	10,000 @ \$0.240	P Capital Corp.	Englesby	10,000 @ \$0.240	\$0.005	1
22	12 Oct	13:18:10	25,000 @ \$0.250	Investor A	Englesby	25,000 @ \$0.245	\$0.005	1
23	12 Oct	13:20:00	10,000 @ \$0.250	P Capital Corp.	Englesby	10,000 @ \$0.250	\$0.005	1
					Totals	548,500 shares		29

Table 2 – Execution of Sales of Share Purchase Warrant Holders and Relevant Activity of Client Accounts in Relation to those Sales

Date	Order Entry Time (ET)	Sell Order Details	Account Holder	Order Created by	Fill Details	Summary of Activity by Client Accounts
02 Oct	13:25:59	55,000 @ \$0.205	KM	Englesby	55,000 @ \$0.205	Increased share price to \$0.21 before the entry of this order
02 Oct	13:30:01	125,000 @ \$0.205	ME*	Englesby	125,000 @ \$0.205	Increased share price above \$0.20 after a decline during the completion of this order
03 Oct	10:50:44	300,000 @ \$0.220	A Holdings	Englesby	300,000 @ \$0.220	Increased share price to \$0.23 immediately after this order is filled

Date	Order Entry Time (ET)	Sell Order Details	Account Holder	Order Created by	Fill Details	Summary of Activity by Client Accounts
05 Oct	15:29:49	375,000 @ \$0.230	C F Holdings*	Englesby	112,000 @ \$0.230	Increased the share price to \$0.22 twice over the next day before amending the limit price to \$0.22
09 Oct	14:03:14	263,000 @ \$0.220	C F Holdings*	Englesby	263,000 @ \$0.220	Increased the share price five times from 09-10 Oct until this order is filled
11 Oct	15:53:19	330,000 @ \$0.220	DO	Englesby	330,000 @ \$0.220	Increased share price to \$0.23 before the entry of this order, and again to \$0.235 immediately after this order is filled
11 Oct	15:53:33	750,000 @ \$0.220	JM*	Englesby	750,000 @ \$0.220	See above comments for DO
11 Oct	15:53:44	750,000 @ \$0.220	KDB Investments*	Englesby	750,000 @ \$0.220	See above comments for DO
12 Oct	13:12:25	100,000 @ \$0.240	TR*	Englesby	100,000 @ \$0.240	Increased share price to \$0.24 before the entry of this order
12 Oct	14:33:12	100,000 @ \$0.255	JR	Englesby	100,000 @ \$0.255	Increased the share price to \$0.25 immediately after the fill for T. Ross and before the entry of this order
				Total	2,885,000	

*executed as Short Sales

Table 3 – Active Buy Orders for the Client Accounts (Phase 2: October 15 to December 7, 2012)

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	15 Oct	09:32:03	20,000 @ \$0.260	P Capital Corp.	Nishimura	8,000 @ \$0.255 10,000 @ \$0.260	\$0.010	2
2	15 Oct	10:32:22	10,000 @ \$0.265	P Capital Corp.	Nishimura	10,000 @ \$0.260	\$0.010	1
3	15 Oct	11:47:18	10,000 @ \$0.260	P Capital Corp.	Nishimura	10,000 @ \$0.255	\$0.005	1
4	15 Oct	11:47:31	10,000 @ \$0.260	P Capital Corp.	Nishimura	4,000 @ \$0.255 6,000 @ \$0.260	\$0.005	1
5	15 Oct	14:33:19	10,000 @ \$0.265	P Capital Corp.	Nishimura	9,000 @ \$0.265	\$0.005	1
6	16 Oct	09:36:47	20,000 @ \$0.280	***111 BC Ltd.	Nishimura	20,000 @ \$0.280	\$0.010	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
7	16 Oct	10:37:12	30,000 @ \$0.285	***111 BC Ltd.	Nishimura	30,000 @ \$0.285	\$0.005	1
8	16 Oct	12:41:58	10,000 @ \$0.285	***111 BC Ltd.	Englesby	10,000 @ \$0.285	\$0.005	1
9	16 Oct	14:09:25	5,000 @ \$0.270	P Capital Corp.	Englesby	5,000 @ \$0.270	\$0.005	1
10	16 Oct	15:45:15	40,000 @ \$0.270	Investor A	Englesby	40,000 @ \$0.270	\$0.005	1
11	17 Oct	13:31:25	5,000 @ \$0.275	P Capital Corp.	Englesby	5,000 @ \$0.275	\$0.005	1
12	18 Oct	09:29:33	50,000 @ \$0.290	***111 BC Ltd.	Englesby	50,000 @ \$0.290	\$0.005	1
13	18 Oct	11:43:09	10,000 @ \$0.285	Investor A	Nishimura	5,500 @ \$0.280 4,500 @ \$0.285	\$0.005	1
14	18 Oct	12:41:43	25,000 @ \$0.285	***111 BC Ltd.	Nishimura	11,500 @ \$0.280 13,500 @ \$0.285	\$0.005	1
15	19 Oct	10:19:19	1,000 @ \$0.285	Investor B	Nishimura	1,000 @ \$0.280	\$0.005	1
16	19 Oct	12:19:24	100,000 @ \$0.300	***111 BC Ltd.	Englesby	13,000 @ \$0.280 27,000 @ \$0.285	\$0.025	4
17	22 Oct	12:43:20	1,834 @ \$0.300	Investor B	Englesby	1,834 @ \$0.300	\$0.005	1
18	22 Oct	13:26:21	25,000 @ \$0.300	Investor B	Nishimura	15,000 @ \$0.295 10,000 @ \$0.300	\$0.005	1
19	23 Oct	10:10:43	100,000 @ \$0.275	Investor B	Nishimura	100,000 @ \$0.275	\$0.005	1
20	25 Oct	12:02:03	25,000 @ \$0.280	Investor B	Nishimura	25,000 @ \$0.280	\$0.005	1
21	30 Oct	12:14:30	10,000 @ \$0.270	Investor A	Nishimura	4,500 @ \$0.265 5,500 @ \$0.270	\$0.005	1
22	30 Oct	14:31:07	10,000 @ \$0.270	Investor A	Nishimura	10,000 @ \$0.270	\$0.005	1
23	31 Oct	12:38:57	15,000 @ \$0.270	Investor A	Englesby	15,000 @ \$0.270	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
24	01 Nov	09:38:07	10,000 @ \$0.280	Investor A	Englesby	5,000 @ \$0.275 5,000 @ \$0.280	\$0.015	2
25	01 Nov	13:13:51	105,000 @ \$0.280	Investor A	Englesby	1,000 @ \$0.270 104,000 @ \$0.275	\$0.010	2
26	01 Nov	13:48:56	12,000 @ \$0.280	Investor A	Englesby	4,000 @ \$0.270 7,000 @ \$0.275	\$0.010	2
27	02 Nov	10:15:58	20,000 @ \$0.275	P Capital Corp.	Englesby	15,000 @ \$0.270 5,000 @ \$0.275	\$0.005	1
28	02 Nov	13:56:11	150,000 @ \$0.270	P Capital Corp.	Nishimura	150,000 @ \$0.270	\$0.005	1
29	02 Nov	14:02:25	125,000 @ \$0.275	P Capital Corp.	Englesby	122,500 @ \$0.275	\$0.005	1
30	02 Nov	15:43:46	10,000 @ \$0.270	P Capital Corp.	Englesby	10,000 @ \$0.270	\$0.005	1
31	05 Nov	12:32:27	150,000 @ \$0.280	P Capital Corp.	Englesby	147,000 @ \$0.270 3,000 @ \$0.275	\$0.010	2
32	05 Nov	12:33:17	150,000 @ \$0.280	P Capital Corp.	Englesby	150,000 @ \$0.280	\$0.005	1
33	05 Nov	12:41:20	50,000 @ \$0.300	P Capital Corp.	Englesby	25,500 @ \$0.280 24,500 @ \$0.290	\$0.010	1
34	09 Nov	12:06:02	30,000 @ \$0.300	***111 BC Ltd.	Englesby	30,000 @ \$0.300	\$0.005	1
35	12 Nov	09:42:12	24,500 @ \$0.310	Investor B	Nishimura	24,500 @ \$0.305	\$0.005	1
36	13 Nov	10:03:10	10,000 @ \$0.300	***111 BC Ltd.	Englesby	8,000 @ \$0.300	\$0.010	1
37	13 Nov	13:52:34	10,000 @ \$0.300	***111 BC Ltd.	Englesby	10,000 @ \$0.300	\$0.005	1
38	14 Nov	15:40:06	15,000 @ \$0.305	***111 BC Ltd.	Englesby	8,000 @ \$0.295 7,000 @ \$0.300	\$0.005	1
39	15 Nov	11:43:23	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	9,000 @ \$0.295 1,000 @ \$0.300	\$0.010	2
40	15 Nov	13:32:32	10,000 @ \$0.295	***111 BC Ltd.	Englesby	1,000 @ \$0.285 6,000 @ \$0.290 3,000 @ \$0.295	\$0.010	3
41	16 Nov	09:30:53	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	8,000 @ \$0.295 2,000 @ \$0.300	\$0.010	2
42	16 Nov	12:03:12	20,000 @ \$0.290	***111 BC Ltd.	Nishimura	14,000 @ \$0.285 6,000 @ \$0.290	\$0.005	1
43	16 Nov	13:04:06	20,000 @ \$0.300	***111 BC Ltd.	Englesby	20,000 @ \$0.295	\$0.005	1
44	16 Nov	13:41:16	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	10,000 @ \$0.300	\$0.010	1
45	19 Nov	09:46:31	25,000 @ \$0.310	***111 BC Ltd.	Englesby	25,000 @ \$0.305	\$0.005	1
46	19 Nov	11:23:10	25,000 @ \$0.305	***111 BC Ltd.	Nishimura	25,000 @ \$0.300	\$0.005	1
47	19 Nov	12:00:58	30,000 @ \$0.305	***111 BC Ltd.	Englesby	30,000 @ \$0.305	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
48	30 Nov	12:14:33	25,000 @ \$0.295	Investor A	Englesby	25,000 @ \$0.295	\$0.005	1
49	03 Dec	15:16:58	75,000 @ \$0.325	Investor A	Englesby	10,000 @ \$0.310 25,000 @ \$0.315 40,000 @ \$0.320	\$0.010	2
50	03 Dec	15:22:38	100,000 @ \$0.330	Investor A	Englesby	5,000 @ \$0.320 11,000 @ \$0.325 84,000 @ \$0.330	\$0.005	1
51	05 Dec	12:58:31	25,000 @ \$0.335	Investor A	Nishimura	23,500 @ \$0.330 1,500 @ \$0.335	\$0.005	1
52	05 Dec	14:43:52	25,000 @ \$0.335	Investor A	Englesby	25,000 @ \$0.335	\$0.005	1
53	06 Dec	12:36:15	25,000 @ \$0.335	Investor A	Nishimura	25,000 @ \$0.335	\$0.005	1
54	07 Dec	09:41:55	100,000 @ \$0.340	Investor A	Englesby	3,000 @ \$0.335 97,000 @ @0.340	\$0.015	2
					Totals	1,941,834 shares		68

**Table 4 – Active Buy Orders for the Client Accounts
(Phase 3: December 10, 2012 to January 23, 2013)**

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	10 Dec	10:02:00	10,000 @ \$0.350	P Capital Corp.	Nishimura	2,000 @ \$0.335 8,000 @ \$0.340	\$0.010	3
2	10 Dec	10:58:41	10,000 @ \$0.345	P Capital Corp.	Nishimura	10,000 @ \$0.345	\$0.005	1
3	10 Dec	15:01:33	60,000 @ \$0.360	Investor B	Nishimura	59,000 @ \$0.355 1,000 @ \$0.360	\$0.010	2
4	11 Dec	10:54:24	20,000 @ \$0.360	Investor B	Nishimura	3,500 @ \$0.350 16,000 @ \$0.355 500 @ \$0.360	\$0.015	3
5	11 Dec	14:56:24	20,000 @ \$0.365	Investor B	Englesby	11,500 @ \$0.355 5,000 @ \$0.360 3,500 @ \$0.365	\$0.010	3
6	12 Dec	09:52:02	100,000 @ \$0.370	Investor B	Nishimura	22,500 @ \$0.360 51,000 @ \$0.365 26,500 @ \$0.370	\$0.010	2
7	12 Dec	14:03:47	20,000 @ \$0.380	Investor B	Nishimura	20,000 @ \$0.380	\$0.005	1
8	14 Dec	09:34:44	10,000 @ \$0.405	Investor B	Englesby	5,500 @ \$0.400 4,500 @ \$0.405	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
9	14 Dec	13:28:03	10,000 @ \$0.415	Investor B	Englesby	6,000 @ \$0.410 4,000 @ \$0.415	\$0.010	3
10	17 Dec	09:36:25	10,000 @ \$0.420	Investor B	Nishimura	10,000 @ \$0.420	\$0.005	1
11	17 Dec	15:37:42	10,000 @ \$0.400	Investor B	Nishimura	10,000 @ \$0.400	\$0.005	1
12	18 Dec	13:00:30	10,000 @ \$0.385	Investor B	Nishimura	10,000 @ \$0.385	\$0.010	1
13	19 Dec	09:34:35	15,000 @ \$0.390	Investor B	Nishimura	13,500 @ \$0.385 1,500 @ \$0.390	\$0.010	2
14	19 Dec	12:57:54	80,000 @ \$0.370	***111 BC Ltd.	Englesby	80,000 @ \$0.370	\$0.005	1
15	20 Dec	09:40:54	20,000 @ \$0.370	***111 BC Ltd.	Nishimura	17,500 @ \$0.365 2,500 @ \$0.370	\$0.010	2
16	20 Dec	14:46:10	25,000 @ \$0.375	***111 BC Ltd.	Englesby	19,000 @ \$0.370 6,000 @ \$0.375	\$0.010	2
17	21 Dec	12:38:03	10,000 @ \$0.380	***111 BC Ltd.	Englesby	10,000 @ \$0.380	\$0.010	1
18	21 Dec	13:20:35	10,000 @ \$0.375	***111 BC Ltd.	Englesby	10,000 @ \$0.375	\$0.005	1
19	21 Dec	14:34:13	25,000 @ \$0.375	***111 BC Ltd.	Englesby	13,000 @ \$0.370 12,000 @ \$0.375	\$0.005	1
20	24 Dec	11:28:59	15,000 @ \$0.370	***111 BC Ltd.	Englesby	15,000 @ \$0.360	\$0.005	1
21	24 Dec	12:49:51	10,000 @ \$0.360	***111 BC Ltd.	Englesby	10,000 @ \$0.360	\$0.010	1
22	27 Dec	09:36:51	10,000 @ \$0.360	***111 BC Ltd.	Nishimura	1,000 @ \$0.355 9,000 @ \$0.360	\$0.010	2
23	27 Dec	10:31:37	10,000 @ \$0.365	***111 BC Ltd.	Nishimura	10,000 @ \$0.365	\$0.005	1
24	27 Dec	11:23:16	1,000 @ \$0.370	Investor B	Nishimura	1,000 @ \$0.370	\$0.010	1
25	27 Dec	14:49:59	25,000 @ \$0.360	***111 BC Ltd.	Nishimura	4,500 @ \$0.355 20,500 @ \$0.360	\$0.005	2
26	28 Dec	10:46:41	20,000 @ \$0.370	***111 BC Ltd.	Englesby	20,000 @ \$0.365	\$0.010	1
27	28 Dec	11:39:02	10,000 @ \$0.370	***111 BC Ltd.	Englesby	10,000 @ \$0.365	\$0.005	1
28	28 Dec	11:43:28	10,000 @ \$0.370	***111 BC Ltd.	Englesby	10,000 @ \$0.370	\$0.005	1
29	02 Jan	12:20:38	20,000 @ \$0.390	Investor A	Nishimura	1,000 @ \$0.390	\$0.005	1
30	03 Jan	13:26:43	40,000 @ \$0.400	P Capital Corp.	Nishimura	38,500 @ \$0.395 1,500 @ \$0.400	\$0.005	1
31	03 Jan	15:05:21	20,000 @ \$0.400	P Capital Corp.	Nishimura	20,000 @ \$0.395	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
32	04 Jan	12:04:59	25,000 @ \$0.390	P Capital Corp.	Nishimura	25,000 @ \$0.390	\$0.005	1
33	04 Jan	13:22:22	10,000 @ \$0.400	P Capital Corp.	Nishimura	3,000 @ \$0.390 7,000 @ \$0.395	\$0.005	1
34	07 Jan	10:46:08	20,000 @ \$0.390	P Capital Corp.	Englesby	12,500 @ \$0.385 7,500 @ \$0.390	\$0.005	1
35	08 Jan	13:08:19	10,000 @ \$0.390	P Capital Corp.	Nishimura	7,500 @ \$0.385 2,500 @ \$0.390	\$0.005	1
36	08 Jan	14:42:06	30,000 @ \$0.390	P Capital Corp.	Nishimura	30,000 @ \$0.390	\$0.005	1
37	09 Jan	11:50:24	50,000 @ \$0.395	P Capital Corp.	Nishimura	35,500 @ \$0.390 14,500 @ \$0.395	\$0.005	2
38	10 Jan	09:33:28	20,000 @ \$0.400	P Capital Corp.	Englesby	18,500 @ \$0.395 1,500 @ \$0.400	\$0.020	2
39	10 Jan	13:46:32	15,000 @ \$0.400	P Capital Corp.	Englesby	15,000 @ \$0.400	\$0.005	1
40	17 Jan	11:46:35	10,000 @ \$0.375	Investor B	Englesby	10,000 @ \$0.375	\$0.005	1
41	17 Jan	13:03:40	10,000 @ \$0.375	Investor B	Englesby	10,000 @ \$0.375	\$0.005	1
42	18 Jan	14:18:06	20,000 @ \$0.360	Investor B	Englesby	20,000 @ \$0.360	\$0.005	1
43	21 Jan	09:37:57	8,500 @ \$0.370	***111 BC Ltd.	Nishimura	2,000 @ \$0.355 1,000 @ \$0.360 3,000 @ \$0.365 2,500 @ \$0.370	\$0.015	3
44	21 Jan	11:34:59	10,000 @ \$0.380	***111 BC Ltd.	Nishimura	3,500 @ \$0.360 1,500 @ \$0.365 3,000 @ \$0.375 2,000 @ \$0.380	\$0.020	3
45	22 Jan	09:54:11	10,000 @ \$0.370	***111 BC Ltd.	Nishimura	10,000 @ \$0.365	\$0.015	1
46	22 Jan	14:55:46	10,000 @ \$0.370	***111 BC Ltd.	Englesby	8,000 @ \$0.360 2,000 @ \$0.370	\$0.005	1
47	23 Jan	09:30:20	400,000 @ \$0.385	***111 BC Ltd.	Englesby	6,000 @ \$0.350 1,000 @ \$0.355 2,000 @ \$0.360 7,000 @ \$0.365 93,000 @ \$0.370	\$0.020	7

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
						15,000 @ \$0.380 276,000 @ \$0.385		
48	23 Jan	09:30:47	25,000 @ \$0.385	***111 BC Ltd.	Englesby	24,000 @ \$0.385	0.020	1
49	23 Jan	10:11:48	20,000 @ \$0.390	Investor A	Nishimura	4,000 @ \$0.380 16,000 @ \$0.385	\$0.005	1
50	23 Jan	10:37:10	10,000 @ \$0.385	Investor A	Englesby	10,000 @ \$0.385	\$0.005	1
51	23 Jan	14:10:34	5,000 @ \$0.365	Investor A	Nishimura	5,000 @ \$0.365	\$0.005	1
52	23 Jan	14:53:55	5,000 @ \$0.365	Investor A	Englesby	5,000 @ \$0.365	\$0.010	1
					Totals	1,369,500 shares		79

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AND
THE UNIVERSAL MARKET INTEGRITY RULES
AND
TEYMUR ENGLSBY

OFFER OF SETTLEMENT

INTRODUCTION

1. The Enforcement Department Staff (“Staff”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) has conducted an investigation (the “Investigation”) into the conduct of Teymur Englesby (the “Respondent”).
2. The Investigation has disclosed matters for which IIROC seeks certain sanctions against the Respondent pursuant to Rule 10.5 of the Universal Market Integrity Rules (“UMIR”).
3. If this Offer of Settlement is accepted by the Respondent, the resulting settlement agreement (the “Settlement Agreement”) which has been negotiated in accordance with Part 3 of UMIR Policy 10.8, is conditional upon approval by a hearing panel appointed pursuant to IIROC Transitional Rule No. 1, Schedule C.1 (the “Hearing Panel”).
4. The Respondent agrees to waive all rights under UMIR to a hearing or to an appeal or review if the Settlement Agreement is approved by the Hearing Panel.
5. The Respondent consents to be subject to the jurisdiction of IIROC and its relevant disciplinary process

and rules in relation to this matter.

6. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.

AGREEMENT AS TO REQUIREMENTS CONTRAVENED

7. The Respondent agrees that while employed as a Registered Representative at PI Financial Corp., he entered orders and executed trades on multiple marketplaces for the shares of DVN in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).

ADMITTED FACTS

8. For the purposes of this Settlement Agreement, Staff and the Respondent agree with and rely upon the admitted facts and conclusions which are set out in the Statement of Allegations attached as Appendix A to this Settlement Agreement.

DISPOSITION

9. For the contraventions in paragraph 7 above, Staff and the Respondent have agreed upon disposition on the basis of:
 - (i) a two month suspension from access to an IIROC-regulated marketplace (from October 22 to December 21, 2016, both inclusive);
 - (ii) a fine in the amount of \$45,000, payable by the Respondent to IIROC; and
 - (iii) costs in the amount of \$5,000, payable by the Respondent to IIROC.

PROCEDURES FOR ACCEPTANCE OF OFFER OF SETTLEMENT AND APPROVAL OF SETTLEMENT AGREEMENT

10. The Respondent shall have until the close of business on August 31, 2016 to sign this Settlement Agreement and serve an executed copy thereof on Staff.
11. This Settlement Agreement shall be presented to the Hearing Panel at a hearing (the "Approval Hearing") held for the purpose of approving the Settlement Agreement, in accordance with the procedures described in UMIR Policy 10.8 in addition to any other procedures as may be agreed upon between the parties. The Respondent acknowledges that IIROC shall notify the public and media of the Approval Hearing in such manner and by such media as IIROC sees fit.
12. Pursuant to Part 3.4 of UMIR Policy 10.8, the Hearing Panel may accept or reject this Settlement Agreement.
13. In the event the Settlement Agreement is accepted by a Hearing Panel, the matter becomes final, there can be no appeal or review of the matter, the disposition of the matter agreed upon in this Settlement Agreement will be included in the permanent record of IIROC in respect of the Respondent and IIROC will publish a summary of the Requirements contravened, the facts, and the disposition agreed upon in the Settlement Agreement.
14. In the event the Hearing Panel rejects the Settlement Agreement, IIROC may proceed with a hearing of the matter before a differently constituted Hearing Panel pursuant to Part 3.7 of UMIR Policy 10.8 and this Settlement Agreement may not be referred to without the consent of both parties.
15. The Respondent agrees that, in the event he fails to comply with any of the terms of the Settlement Agreement, IIROC may enforce this settlement in any manner it deems appropriate.

16. The Respondent agrees that neither he nor anyone on his behalf will make a public statement inconsistent with this Settlement Agreement.

IN WITNESS WHEREOF the parties have signed this Settlement Agreement as of the dates noted below.

DATED at “Vancouver” on the “29” day of “August”, 2016.

“Witness” _____ “Teymur Englesby” _____

Witness Signature **Teymur Englesby**

“Owais Ahmed”

Name of Witness

“Owais Ahmed

Barrister and Solicitor

3200-650 West Georgia Street

Vancouver, BC V6B 4P7”

DATED at Vancouver, British Columbia on the “22” day of August, 2016

Per: “Warren Funt” _____

Warren Funt

Vice-President, Western Canada

Investment Industry Regulatory Organization of Canada

Royal Centre

1055 West Georgia Street

Suite 2800

Vancouver, B.C. V6E 3R5

This foregoing Settlement Agreement is hereby approved this “15th” day of “September”, 2016, by the following hearing panel constituted to review the terms thereof:

Per: “Winton Derby” _____

Panel Chair

“Winton Derby , Chair

Per: “Johannes van Koll” _____

Panel Member

“JOHANNES VAN KOLL”

Per: “Brian Worth” _____

Panel Member

“BRIAN WORTH”

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA
AND
THE UNIVERSAL MARKET INTEGRITY RULES
AND
CALE NISHIMURA**

OFFER OF SETTLEMENT

INTRODUCTION

1. The Enforcement Department Staff (“Staff”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) has conducted an investigation (the “Investigation”) into the conduct of Cale Nishimura (the “Respondent”).
2. The Investigation has disclosed matters for which IIROC seeks certain sanctions against the Respondent pursuant to Rule 10.5 of the Universal Market Integrity Rules (“UMIR”).
3. If this Offer of Settlement is accepted by the Respondent, the resulting settlement agreement (the “Settlement Agreement”) which has been negotiated in accordance with Part 3 of UMIR Policy 10.8, is conditional upon approval by a hearing panel appointed pursuant to IIROC Transitional Rule No. 1, Schedule C.1 (the “Hearing Panel”).
4. The Respondent agrees to waive all rights under UMIR to a hearing or to an appeal or review if the Settlement Agreement is approved by the Hearing Panel.
5. The Respondent consents to be subject to the jurisdiction of IIROC and its relevant disciplinary process and rules in relation to this matter.
6. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.

AGREEMENT AS TO REQUIREMENTS CONTRAVENED

7. The Respondent agrees that while employed as an Investment Representative or Registered Representative at PI Financial Corp., he entered orders and executed trades on multiple marketplaces for the shares of DVN in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).

ADMITTED FACTS

8. For the purposes of this Settlement Agreement, Staff and the Respondent agree with and rely upon the admitted facts and conclusions which are set out in the Statement of Allegations attached as Appendix A to this Settlement Agreement.

DISPOSITION

9. For the contraventions in paragraph 7 above, Staff and the Respondent have agreed upon disposition on the basis of:
 - (i) a one month suspension from access to an IIROC-regulated marketplace (from September 16 to October 15, 2016, both inclusive);
 - (ii) a fine in the amount of \$15,000, payable by the Respondent to IIROC; and

(iii) costs in the amount of \$5,000, payable by the Respondent to IIROC.

PROCEDURES FOR ACCEPTANCE OF OFFER OF SETTLEMENT AND APPROVAL OF SETTLEMENT AGREEMENT

10. The Respondent shall have until the close of business on August 31, 2016 to sign this Settlement Agreement and serve an executed copy thereof on Staff.
11. This Settlement Agreement shall be presented to the Hearing Panel at a hearing (the “Approval Hearing”) held for the purpose of approving the Settlement Agreement, in accordance with the procedures described in UMIR Policy 10.8 in addition to any other procedures as may be agreed upon between the parties. The Respondent acknowledges that IIROC shall notify the public and media of the Approval Hearing in such manner and by such media as IIROC sees fit.
12. Pursuant to Part 3.4 of UMIR Policy 10.8, the Hearing Panel may accept or reject this Settlement Agreement.
13. In the event the Settlement Agreement is accepted by a Hearing Panel, the matter becomes final, there can be no appeal or review of the matter, the disposition of the matter agreed upon in this Settlement Agreement will be included in the permanent record of IIROC in respect of the Respondent and IIROC will publish a summary of the Requirements contravened, the facts, and the disposition agreed upon in the Settlement Agreement.
14. In the event the Hearing Panel rejects the Settlement Agreement, IIROC may proceed with a hearing of the matter before a differently constituted Hearing Panel pursuant to Part 3.7 of UMIR Policy 10.8 and this Settlement Agreement may not be referred to without the consent of both parties.
15. The Respondent agrees that, in the event he fails to comply with any of the terms of the Settlement Agreement, IIROC may enforce this settlement in any manner it deems appropriate.
16. The Respondent agrees that neither he nor anyone on his behalf will make a public statement inconsistent with this Settlement Agreement.

IN WITNESS WHEREOF the parties have signed this Settlement Agreement as of the dates noted below.

DATED at “Vancouver” on the “30th” day of “August”, 2016.

“Witness Signature” _____

“Cale Nishimura” _____

Witness Signature

Cale Nishimura

“Owais Ahmed”

Name of Witness

“Owais Ahmed

Barrister and Solicitor

3200-650 West Georgia Street

Vancouver, BC V6B 4P7”

DATED at Vancouver, British Columbia on the “22” day of August, 2016

Per: “Warren Funt” _____

Warren Funt

Vice-President, Western Canada
Investment Industry Regulatory Organization of Canada
Royal Centre
1055 West Georgia Street
Suite 2800
Vancouver, B.C. V6E 3R5

This foregoing Settlement Agreement is hereby approved this “15th” day of “September”, 2016, by the following hearing panel constituted to review the terms thereof:

Per: “Winton Derby”

Panel Chair

“WINTON DERBY, CHAIR”

Per: “Johannes van Koll”

Panel Member

“JOHANNES VAN KOLL”

Per: “Brian Worth”

Panel Member

“BRIAN WORTH”

APPENDIX “A”

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA**

AND

THE UNIVERSAL MARKET INTEGRITY RULES

AND

TEYMUR ENGLSEBY

AND

CALE NISHIMURA

STATEMENT OF ALLEGATIONS

I. REQUIREMENTS CONTRAVENED

1. IIROC Staff alleges that Teymur Englesby (“Englesby”) has committed the following contravention:

- (i) The Respondent Englesby, while employed as a Registered Representative at PI Financial Corp. (“PIFC”), entered orders and executed trades on multiple marketplaces for the shares of Discovery Ventures Inc. (“DVN”) in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).

2. IIROC Staff alleges that Cale Nishimura (“Nishimura”), has committed the following contravention:
 - (i) The Respondent Nishimura, while employed as an Investment Representative or Registered Representative at PIFC, entered orders and executed trades on multiple marketplaces for the shares of DVN in the period September 18, 2012 to January 23, 2013 that he ought reasonably to have known, could reasonably be expected to create, an artificial price for the securities contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2, for which he is liable under UMIR 10.4(1).
3. Englesby and Nishimura are, as the context may require, referred to collectively as “the Respondents”.
4. The text of the relevant Requirements is set out in Schedule “A” hereto.

II. RELEVANT FACTS AND CONCLUSIONS

OVERVIEW

5. In January 2013, PIFC filed a gatekeeper Report (the “PIFC Gatekeeper Report”) with the B.C. Securities Commission. The PIFC Gatekeeper Report outlined concerns about trading activity in certain client accounts (the “Client Accounts”) in shares of DVN.
6. IIROC Staff investigated the matters raised in the PIFC Gatekeeper Report and the trading activity in DVN between September 18, 2012 and January 23, 2013 (the “Relevant Period”).
7. In the Relevant Period, Englesby was the broker of record for the Client Accounts and Nishimura was his assistant.
8. During the Relevant Period, the Respondents entered orders and executed trades in the Client Accounts that may have maintained and supported the price at a level predetermined by the clients, and thereby may have created an artificial price for the securities. The Client Accounts were controlled by individuals whom the Respondents ought to have known may have been acting in a collective manner to increase the share price in the Relevant Period.
9. During the Relevant Period, the Respondents entered orders and executed trades in shares of DVN for the Client Accounts causing numerous upticks, or price increases, in the share price.
10. The trading in the Client Accounts may have had the effect of raising the price of DVN shares so that the exercise of certain share purchase warrants was economically feasible. The exercise of the share purchase warrants resulted in cash proceeds to DVN which were then used to further a mining development project in which one of the Client Account holders had an interest.
11. The Respondents should have known of their gatekeeper obligation to be alert to potentially manipulative and deceptive activity. The Respondents ought reasonably to have known, that the orders and trades might reasonably be expected to create an artificial price for shares of DVN.

BACKGROUND

Discovery Ventures Inc.

12. DVN is a natural resource company engaged in the acquisition and exploration of mining properties. It commenced trading on the TSX Venture Exchange on 30 October 2009. At the beginning of the Relevant Period, DVN’s share capital consisted of 20,242,418 issued and outstanding shares. The following individuals were its Directors and Officers:

Individual	Position
------------	----------

Akash Patel	President, Chief Executive Officer and Director
Kenneth Phillippe	Chief Financial Officer, Secretary and Director
Neil H. Morgan	Director
Matt Wayrynen	Director

13. The following table outlines a chronology of relevant corporate events for DVN in 2010 and 2012:

Date	Event
09 September 2010	DVN announces a private placement of up to 5 million units at \$0.12 per unit. Each unit consists of the following: <ul style="list-style-type: none"> • One common share • One share purchase warrant • The share purchase warrant has a two year term, exercisable at \$0.20 to obtain one equivalent free trading DVN share
19 October 2012	DVN private placement closes with 4,999,991 units issued for gross proceeds of \$600,000. Expiration date for exercise of the warrants is confirmed as October 15, 2012
28 June 2012	Akash Patel is appointed as DVN's new President and Chief Executive Officer. He was originally named to DVN's Board of Directors in September 2010.
17 August 2012	Matt Wayrynen is appointed to DVN's Board of Directors. Concurrent with this news release, the resignation of Garth Braun from DVN's Board of Directors is announced.
18 October 2012	DVN announces it has signed a Letter of Intent (the "Willa LOI") to enter into negotiations and to complete technical due diligence with the intent of acquiring up to an 80% interest in the mineral claims located near Silverton, BC.
24 October 2012	DVN receives proceeds of \$679,866 from the exercise of 3,399,331 warrants due on or before 15 October 2012.
19 November	DVN enters into a definitive option agreement to acquire up to an 80% interest in the Willa Property.

Date	Event
2012	
26 November 2012	<p>DVN announces a private placement of up to 8 million units at a price of \$0.25/unit. Each unit consists of the following:</p> <ul style="list-style-type: none"> • One common share • One share purchase warrant • The share purchase warrant has a five-year term, and contains various exercise prices of \$0.35-0.45 (the cost to exercise these warrants increases steadily over the first three years after the closing of the private placement)

Registration Matters

- PIFC is registered as an investment dealer, is a Participating Organization of the Toronto Stock Exchange (the TSX), a Member of the TSXV, and therefore, a Participant under UMIR.
- Englesby was first employed in the securities industry in January 2005 as a Registered Representative. Nishimura was first employed in the securities industry in July 2012 as an Investment Representative and, as of November 2012, as a Registered Representative. The Respondents are currently employed by PIFC.

The Clients and Relationship with the Respondents

- The following table represents the individual account holders who were identified in the PIFC Gatekeeper Report:

Account	Risk Level	Net Worth	Authorized Signatory	Trading Authority
Investor A	100% High Risk	\$8 Million	n/a	None
Investor B	100% High Risk	\$7 Million	n/a	None
P. Capital Corp.	100% High Risk	Greater than \$1 Million	Investor A (100% Owner)	None
***111 BC Ltd.	100% High Risk	\$620,000	Investor C (100% Owner)	None

- Investor A and Investor B are spouses. Investor C, the authorized signatory for ***111 BC Ltd., is the grandfather of Investor A.
- Englesby acknowledged that he has a close personal relationship with the clients Investor A and Investor B and also the president of DVN, all of whom he has known for over 20 years. Investor A is a former registrant and Englesby inherited many of Investor A's former clients upon the latter's resignation from the securities industry in 2007.
- Nishimura also knew the clients Investor A and Investor B for in excess of 15 years. He was also a

director of DVN from November 17, 2010 to February 28, 2012.

20. The Respondents entered numerous orders to buy and sell shares of DVN for the Client Accounts in the Relevant Period. Specifically, over the 88 trading days in the Relevant Period, Englesby entered 436 orders and Nishimura entered 408 orders for the Client Accounts in DVN shares¹. Each order was unsolicited, but the Respondents did not make inquiries that were adequate under the circumstances to determine the economic purpose for the large volume of transactions.
21. In addition, when Investor C transacted in DVN shares for ***111 BC Ltd., Investor A initiated and participated in the telephone call to the Respondents. There were no independent calls from Investor C to either of the Respondents.
22. Furthermore, the Client Accounts did not fund the purchases by depositing funds to pay for the purchases. Instead, the Client Accounts sold DVN shares into the market to reduce the debits that accrued from the purchases. At each month end from October to December 2012, the Client Accounts had large debits in relation to purchases of DVN shares. After the executions of large sales at month-end, significant quantities were re-purchased shortly thereafter.
23. On January 17, 2013, DVN released an Information Circular for its upcoming shareholder meeting. In that document, DVN identified Investor A as the owner of both P. Capital Corp. and ***111 BC Ltd. and also identified Investor A as a party to the Willa LOI. Investor A accordingly had an interest in a higher price for DVN shares because a portion of his compensation as a party to the Willa Property transaction was in the form of DVN shares, although the Respondents were unaware that Investor A was a party to the Willa LOI, or that he had become the beneficial owner of ***111 BC Ltd. until the release of the Information Circular.
24. At the end of January 2013, shortly after PIFC filed the PIFC Gatekeeper Report, compliance staff at PIFC required the Client Accounts to be closed and this was done by February 2013. Trading activity and the price of DVN shares declined thereafter.

DVN TRADING ACTIVITY

Trends Prior to the Relevant Period

25. In the seven months preceding the Relevant Period, DVN shares traded in a range between \$0.12 and \$0.26 per share. The volume of trading ranged from 274,180 shares per month to just over 1,000,000 shares per month. On several trading days there was no trading volume at all.
26. After trading between \$0.185 and \$0.26 in February and March 2012, DVN's share price weakened slightly in April 2012 with the shares trading as low at \$0.165 on lower monthly trading volume. DVN's shares traded in a range between \$.012 and \$0.185 over the period from May to August, 2012, closing at \$0.15 on August 31, 2012. Over the May to August 2012 period, DVN's shares traded on just over half of the available trading days.
27. From April 25, 2012 there were no news releases relating to DVN other than the appointment of two new directors, until October 17, 2012 when the Willa LOI transaction was publicly announced.
28. The chart below summarizes the trading activity in DVN shares from January 2012 to January 2013:

¹ Englesby entered 347 buy orders and 89 sell orders, and Nishimura entered 369 buy orders and 39 sell orders

Period	High Price (\$)	Low Price (\$)	Closing Price (\$)	Volume	# of Trading Days with No Volume
Jan. 2012	0.250	0.190	0.210	1,161,333	5
Feb. 2012	0.260	0.185	0.200	1,072,419	2
Mar. 2012	0.235	0.190	0.230	484,374	5
Apr. 2012	0.225	0.165	0.165	274,180	9
May 2012	0.185	0.130	0.150	684,500	13
Jun. 2012	0.180	0.130	0.155	684,560	8
Jul. 2012	0.165	0.120	0.160	717,500	13
Aug. 2012	0.150	0.130	0.150	1,082,500	11
Sep. 1-17, 2012	0.160	0.130	0.160	145,000	3
Sep. 18-30, 2012 ²	0.200	0.150	0.200	489,000	4
Oct. 2012	0.310	0.200	0.270	13,717,741	0
Nov. 2012	0.355	0.265	0.310	8,711,360	0
Dec. 2012	0.430	0.285	0.400	11,278,249	0
Jan. 2013	0.410	0.265	0.305	8,279,361	0

Overall Trading in the Relevant Period

29. During the period September 2012 to January 2013, PIFC was responsible for approximately 32.7% of the buy volume and 38.5% of the sell volume of DVN shares. In turn, the Client Accounts were responsible for approximately 60% of PIFC's buy volume and approximately half of its sell volume. The Client Accounts were the largest buyers and sellers of DVN shares in the marketplace. The Respondents placed 844 orders for the Client Accounts during the Relevant Period.
30. The Trading Activity comprises three different phases within the Relevant Period.

Phase 1: Trading Before the Expiration of the \$0.20 share Purchase Warrants (September 18 – October 12, 2012)

31. From September 18 to October 12, 2012, there were a total of 64 upticks in DVN shares. PIFC was responsible for 34 (53.1%) of these upticks. In turn, the Client Accounts were responsible for 29 (85.3%) of the PIFC upticks.
32. On September 18, the Client Accounts entered a buy order that increased DVN's share price from \$0.16 to \$0.20, the same price as the exercise price of the share purchase warrants. Over the period from September 28 to October 12, 2012, Englesby entered other purchase orders for the Client Accounts that increased the share price above \$0.20 and which, along with purchase orders from other market participants at prices of \$0.20 or above, made the exercise of the share purchase

² September 18, 2012 is the first date that ***111 BC Ltd. began to increase the share price

warrants economically viable.

33. These transactions are summarized in Table 1 of Schedule “B” which identifies 23 active buy orders for the Client Accounts between September 18 and October 12, 2012.
34. Twelve of Englesby’s clients held \$0.20 share purchase warrants in their respective PIFC trading accounts as of September 2012.
35. Table 2 of Schedule “B” summarizes the sales by nine holders of share purchase warrants and the interaction of trading activity in the Client Accounts. The transactions are described below in paragraphs 37 – 50.
36. During the first few weeks of September 2012, DVN shares traded in a range of \$0.13-0.16. On September 18, Nishimura entered an active unsolicited order to purchase 5,000 DVN shares for ***111 BC Ltd. which resulted in a trade at \$0.20. This trade was a \$0.04 uptick, or price increase, from the previous trade at \$0.16. DVN shares had not traded at \$0.20 or higher since April 2012.
37. Over the next four trading days (19-24 September), Englesby or Nishimura did not enter any new orders for any of the Client Accounts to purchase DVN shares. There were no trades in the marketplace over this time. When trades occurred again between September 25 and 27, DVN shares traded in a range of \$0.15–0.175 per share.
38. On September 28, the last day of trading of the month, Nishimura purchased shares for P Capital Corp. which resulted in a trade at \$0.20, a \$0.02 uptick in the last two hours of the trading session. From the time of P Capital Corp.’s uptick trade until the close of the trading day, other buyers at PIFC and three other dealers purchased 106,000 shares of DVN at \$0.20. During September 2012, Englesby and Nishimura entered 58 buy orders for various clients under their administration to purchase DVN shares. However, the purchases for ***111 BC Ltd. and P Capital Corp on September 18 and 28 are the only orders that contained limit prices as high as \$0.20.
39. On October 1, there were no trades in DVN shares until Nishimura purchased shares for Investor A’s personal account. This order contained a limit price of \$0.22 and increased the share price to the specified limit of \$0.22. In addition to producing an uptick of \$0.02, the \$0.20 share purchase warrants now traded in-the-money at this price level. Approximately ten minutes later, Englesby entered a sell order for A Holdings, a holder of \$0.20 share purchase warrants, to sell 300,000 shares at \$0.225, just \$0.005 higher than the most recent trade by Investor A at \$0.22. The sell order was cancelled less than 43 minutes later, DVN’s share price declined to \$0.20 in subsequent trading.
40. On October 2, DVN shares traded at \$0.20 before Nishimura purchased shares for Investor A’s personal account that increased the share price to \$0.21. Less than two minutes after Investor A’s purchase, DVN shares traded at \$0.21 and \$0.215 in purchases by another dealer. Less than an hour later, when the best bid for DVN was \$0.20 (by another dealer), Englesby entered a sell order for KM to sell her DVN shares³ at \$0.205.
41. After the shares offered for KM had been purchased at \$0.205 by other dealers on the afternoon of October 2, Englesby entered a sell order for ME, a relative, to sell DVN shares at \$0.205 based on her ownership of \$0.20 share purchase warrants. After most of ME’s shares had been sold to other dealers at \$0.205, the price of DVN shares declined to \$0.20 as a result of a sell order from an

³ KM held 55,000 DVN shares long in her account at the time of this sale. The proceeds from selling the shares at \$0.205 were used to exercise the 50,000 share purchase warrants into 50,000 DVN shares.

unrelated PIFC account. Shortly afterward, a purchaser at another dealer upticked DVN's price to \$0.205, after which Englesby entered a buy order for Investor A's personal account that resulted in Investor A acquiring 5,500 shares at \$0.205 from ME.

42. On October 3, Englesby entered an order to sell shares for A Holdings based on its ownership of \$0.20 share purchase warrants. This order was executed in various parts over the trading day at \$0.22. Less than 45 seconds after the completion of the sell order for A Holdings, Englesby entered orders for ***111 BC Ltd. to purchase DVN shares at \$0.225 and \$0.23. Over the remainder of the session, several dealers, including PIFC, purchased DVN shares at prices from \$0.215 to \$0.23. During that period, Englesby completed three additional purchases for ***111 BC Ltd. that each produced upticks in DVN's share price to either \$0.225 or \$0.23.
43. On October 5, Englesby entered a sell order late in the session for C F Holdings to sell 375,000 shares based on its ownership of \$0.20 share purchase warrants. This order contained a limit price of \$0.23 and received a fill of 112,000 on that day.
44. On the next trading day, October 9, DVN traded at prices from \$0.21 to \$0.225. Englesby amended the limit price of the sell order for C F Holdings from \$0.23 to \$0.22 in the mid-afternoon and the C F Holdings account was able to sell 237,000 DVN shares at that price over the balance of the trading day. Over the course of the day, Nishimura entered orders for the Client Accounts⁴ that resulted in trades that increased DVN's share price to \$0.215 or \$0.22 on five occasions, with three of these uptick trades occurring in the last 30 minutes of trading, with the final order just three minutes before the close.
45. On October 10, 26,000 shares of the sell order for C F Holdings remained unfilled at the amended limit price of \$0.22. At the opening of trading, DVN shares traded at \$0.215. Nishimura completed a purchase for P Capital Corp. at 9:33 that increased the trading price to \$0.22 and resulted in the purchase by P Capital Corp. of 13,000 shares from C F Holdings. Ten minutes later, the remaining 13,000 shares on C F Holdings' sell order were purchased at \$0.22 by two other dealers.
46. By October 11, with just three trading days remaining before the expiration of the \$0.20 share purchase warrants, DVN shares opened at \$0.225 and traded between \$0.22 and \$0.23 for most of the trading day. In the final fifteen minutes of the session, Englesby entered buy orders for P Capital Corp. that increased the share price from \$0.22 to \$0.23. Less than eight minutes after the P Capital Corp. purchase at \$0.23, Englesby entered three consecutive sell orders⁵ for holders of \$0.20 share purchase warrants to sell their DVN shares at a limit price of \$0.22. The aggregate share quantity of the three sell orders was 1.83 million shares. The first two orders were filled immediately upon entry, receiving fills for 1.08 million DVN shares at \$0.22. The third order was filled in its entirety within three minutes of entry for 750,000 shares at \$0.22. Of the 1.83 million shares sold for the warrant holders at \$0.22 per share, 350,000 shares were purchased by Investor B and P Capital Corp., 270,000 were purchased by other PIFC clients and the remaining 1.21 million shares were purchased by other dealers.
47. Just 17 seconds after the completion of the third sell order, Nishimura entered an order for ***111 BC Ltd. that led to purchases at \$0.225 and \$0.23 with less than 2.5 minutes remaining before the close. With 70 seconds remaining before the close, Englesby entered an order for P Capital Corp. that led to purchases at \$0.23 and then \$0.235, which was both the high and the closing price for the

⁴ One order for Investor B and two orders for P Capital Corp.

⁵ DO (330,000 shares), JM (750,000 shares) and KDB Investments (750,000 shares)

day.

48. On October 12, Englesby entered sell orders for TR and JR based on their holdings of \$0.20 share purchase warrants. The Client Accounts increased the price of DVN shares before the execution of each of these sell orders. Prior to executing the sell order for TR, Englesby purchased shares for P Capital Corp. which increased the price of DVN shares from \$0.235 to \$0.24. This was the day's high at that time. After a number of purchases at \$0.24 by other market participants, Englesby entered a sell order for TR with a limit price of \$0.24. Moments after the completion of the first sell order, Englesby completed two consecutive purchases for the Client Accounts⁶ that increased the price of DVN shares to \$0.245 and then \$0.25, which were session highs at that time. Other market participants increased the share price to \$0.265 before Englesby entered the sell order for JR at \$0.255.

Phase 2: Trading after the Share Purchase Warrant Expiry (October 15 to December 7, 2012)

49. From October 15 to December 7, 2012, the Client Accounts continued to demonstrate an impact on the price of DVN shares.
50. PIFC was the PO responsible for the largest number of price increases from October 15 to December 7, 2012. The Client Accounts were responsible for 68 upticks, or 64.8% of PIFC's total price increases in this period. The Client Accounts were responsible for Buy Volume of 3,708,834 shares and Sell Volume of 4,504,500 shares.
51. A review of the upticks involving the Client Accounts from October 15 to December 7 reveals that significant portions of these price increases occurred surrounding corporate events by DVN during this time.
52. After increasing the share price numerous times during the various exercises of \$0.20 share purchase warrants in Phase 1, the Client Accounts made other trades that increased the share price in the days that followed. Specifically, the Client Accounts were responsible for 16 purchases⁷ from October 15 – 19 that increased the share price. On October 19, the day after the announcement of the Willa LOI, Englesby completed a purchase for ***111 BC Ltd. that increased the share price to \$0.30. This was not only a new high for the day to that point, but also the year high price for DVN shares in 2012, although other dealers made subsequent purchases on October 19 at \$0.30, \$0.305 and \$0.31.
53. DVN also announced a subsequent financing in late November (the "November 2012 Private Placement") and increased the shares offered in this financing over the first week of December 2012. The Client Accounts increased the share price on each day following the announcement of an increase to the units offered in the financing. On December 3, after the first announcement of an increase in the size of the private placement, the Client Accounts were the first to buy DVN at \$0.33, although other dealers acquired shares at \$0.33 and \$0.34 later in the day. On December 5, after the announcement of the second increase in the private placement, the Client Accounts made two purchases at \$0.335 on upticks, although other dealers purchased shares that day at \$0.335 and \$0.34 on upticks that day. On December 7, following the issuance on December 6 of a TSXV notice of acceptance of the filing of the private placement, the Client Accounts twice upticked the share price to \$0.34, although other dealers purchased shares at \$0.34 before and after those trades, as well as at prices higher than \$0.34 later in the day.

⁶ One order for Investor A and one order for P Capital Corp.

⁷ Englesby entered 6 of these orders and Nishimura entered 10

54. Table 3 in Schedule “B” contains 54 purchases entered by the Respondents (30 by Englesby and 24 by Nishimura) for the Client Accounts during the Phase 2 time period that contributed to a price increase for DVN shares.

Phase 3: Trading Over the Remainder of the Relevant Period (December 10, 2012 to January 23, 2013)

55. From December 10, 2012 to January 23, 2013, the Client Accounts continued to have some impact on the price of DVN shares. PIFC was the PO responsible for the largest number of price increases from December 10, 2012 to January 23, 2013. The Client Accounts were responsible for 80 up-ticks, or 80.0% of PIFC’s total price increases in this period. Their upticks as a group represent the highest quantity of price increases in the marketplace, as was the case in Phases 1 and 2. The Client Accounts had a buy volume of 2,922,500 shares and a sell volume of 2,155,500 shares of DVN.
56. After the announcement of the closing of the November 2012 Private Placement financing on December 7, the Client Accounts continued to enter orders that affected the share price of DVN. On December 14, the Client Accounts were the first to buy shares at \$0.405 and \$0.415, although other market participants also purchased shares from \$0.405 to \$0.42 on that day. Purchases in the Client Accounts resulted in further upticks in the days that followed. Table 4 in Schedule “B” describes 52 purchases by the Client Accounts (24 on orders entered by Englesby and 28 on orders entered by Nishimura) during the period from December 10 to January 23 that produced a price increase. Orders entered for the Client Accounts resulted in at least one uptick trade on 24 of the 30 trading days of the period.

RESPONDENTS’ KNOWLEDGE

57. The Respondents ought reasonably to have known that the orders and trades entered and executed on behalf of the Client Accounts might reasonably be expected to create an artificial price for DVN shares during all three phases of the Relevant Period.
58. The pattern and method of trading conducted through the Respondents by the Client Accounts for the shares of DVN ought to have alerted the Respondents to the possibility that the trading was intended to establish, maintain or support an artificial price for the securities. That should have caused the Respondents to exercise greater caution in the acceptance and handling of orders for the Client Accounts and to have made more diligent inquiries of the account holders to ensure that the orders and transactions were entered for proper purposes. Factors that ought to have caused the Respondents to exercise greater diligence in their roles as gatekeepers include::
- (i) The Client Accounts were the only account holders under Englesby’s administration that increased the share price to the \$0.20 level in September 2012;
 - (ii) The Client Accounts were the only account holders under Englesby’s administration that increased the share price above the \$0.20 level from October 1 – 12, 2012. These trades, along with trades by other market participants at prices at or about \$0.20 helped to make the exercise of the DVN share purchase warrants economically feasible;
 - (iii) On October 3, Englesby entered a 500,000 share bid for P Capital Corp to purchase shares at \$0.21. This bid was below the prevailing best bid price of \$0.22 at the time of its entry, but was sufficiently large in quantity that the bid exceeded the entire amount of shares offered in the order book at the time of its entry. In other words, if all of the booked sell orders in the market at that time converted to market sell orders, the share purchase warrants would still remain in the money;
 - (iv) The Client Accounts received fills on a significant quantity of DVN shares based on

the entry of passive limit orders that did not trade immediately. On several occasions, as these orders executed, the Respondents immediately entered orders for the Client Accounts that increased the share price;

- (v) Investor A held 58,333 share purchase warrants in his trading account with Englesby. All but 333 of these share purchase warrants were allowed to expire. Investor A purchased shares at higher prices in the market instead of exercising his contractual right with the issuer to purchase 58,000 DVN shares at \$0.20;
- (vi) The Willa LOI was announced in Phase 2. The Respondents entered orders for the Client Accounts that increased the share price in the days leading up to and after this announcement;
- (vii) The private placement financing was announced in Phase 2. The Respondents entered orders for the Client Accounts that increased the share price each day after DVN announced increases to the number of units offered in the financing;
- (viii) In Phase 3, the Respondents executed 19 purchases in the Client Accounts in which the bid price or quantity exceeded the best displayed bid quantity on the TSX Venture Exchange;
- (ix) In Phase 3, over 60% of the shares purchased by the Client Accounts increased the share price or attempted to increase the share price; and
- (x) Although the trading of the Client Accounts in DVN was economic overall, the Client Accounts did not fund the purchases of DVN shares by depositing funds to pay for the purchases. Instead, the Client Accounts sold DVN shares into the market to reduce the debits that accrued from the purchases. At each month-end from October to December 2012, the Client Accounts had large debits in relation to purchases of DVN shares. After the executions of large sales at month-end, significant quantities were re-purchased shortly thereafter. These month end debit reduction trades facilitated the trading by enabling it to continue without the necessity for any new cash deposits by the Client Accounts.

III. CONCLUSION

- 59. The purpose of UMIR 2.2 and Policy 2.2 is to protect the marketplace from manipulative and deceptive trading activity and artificial pricing, which undermine the integrity of the marketplace and erode investor confidence.
- 60. The Respondents had a gatekeeper obligation to be aware of, and alert to potentially manipulative and deceptive activity. The Respondents ought reasonably to have known that the orders and trades on behalf of the Client Accounts might reasonably be expected to create an artificial price for the securities.

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SCHEDULE "A"

EXCERPTS FROM THE UNIVERSAL MARKET INTEGRITY RULES

2.2 Manipulative and Deceptive Activities

...

- (3) *A Participant or Access Person shall not, directly or indirectly, enter an order or execute a trade on a marketplace if the Participant or Access Person knows or ought reasonably to know that the entry of the order or the execution of the trade will create or could reasonably be expected to create:*
- (a) *a false or misleading appearance of trading activity in or interest in the purchase or sale of the security; or*
 - (b) *an artificial ask price, bid price or sale price for the security or a related security.”*

POLICY 2.2. - MANIPULATIVE AND DECEPTIVE ACTIVITIES

Part 2 False or Misleading Appearance of Trading Activity or Artificial Price

For the purposes of subsection (2) of Rule 2.2 and without limiting the generality of that subsection, if any of the following activities are undertaken on a marketplace and create or could reasonably be expected to create a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection (2) of Rule 2.2:

...

- (c) *making purchases of, or offers to purchase, a security at successively higher prices or in a pattern generally of successively higher prices;*

...

- (f) *entering an order or orders for the purchase or sale of a security to:*
 - (i) *establish a predetermined sale price, ask price or bid price,*
 - (ii) *effect a high or low closing sale price, ask price or bid price, or*
 - (iii) *maintain the sale price, ask price or bid price within a predetermined range;*
- (f) *entering an order or a series of orders for a security that are not intended to be executed;*

...

If persons know or ought reasonably to know that they are engaging or participating in these or similar types of activities those persons will be in breach of subsection (2) of Rule 2.2 irrespective of whether such activity results in a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price for a security or a related security.

Part 3 Artificial Pricing

For the purposes of subsection (2) of Rule 2.2, an ask price, bid price or sale price will be considered artificial if it is not justified by real demand or supply in a security. Whether or not a particular price is “artificial” depends on the particular circumstances.

Some of the relevant considerations in determining whether a price is artificial are:

- (f) *the prices of the preceding trades and succeeding trades;*

- (g) *the change in the last sale price, best ask price or best bid price that results from the entry of the order on a marketplace;*
- (h) *the recent liquidity of the security;*
- (i) *the time the order is entered and any instructions relevant to the time of entry of the order; and*
- (j) *whether any Participant, Access Person or account involved in the order:*
 - (i) *has any motivation to establish an artificial price, or*
 - (ii) *represents substantially all of the orders entered or executed for the purchase or sale of the security.*

The absence of any one or more of these considerations is not determinative that a price is or is not artificial.”

SCHEDULE “B”

Table 1 - Active Buy Orders for the Client Accounts (Phase 1: September 18 to October 12, 2012)

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	18 Sept	13:50:32	5,000 @ \$0.200	***111 BC Ltd.	Englesby	5,000 @ \$0.200	\$0.040	1
2	28 Sept	14:07:02	15,000 @ \$0.200	P Capital Corp.	Nishimura	13,000 @ \$0.190 2,000 @ \$0.200	\$0.020	2
3	01 Oct	11:39:06	21,000 @ \$0.220	Investor A	Nishimura	20,000 @ \$0.200 1,000 @ \$0.220	\$0.020	1
4	02 Oct	12:36:55	5,000 @ \$0.210	Investor A	Nishimura	5,000 @ \$0.210	\$0.010	1
5	02 Oct	13:50:04	50,000 @ \$0.205	Investor A	Englesby	50,000 @ \$0.205	\$0.005	1
6	03 Oct	12:21:32	5,000 @ \$0.230	***111 BC Ltd.	Englesby	3,000 @ \$0.225 2,000 @ \$0.230	\$0.010	3
7	03 Oct	12:46:31	5,000 @ \$0.230	***111 BC Ltd.	Englesby	5,000 @ \$0.230	\$0.015	1
8	03 Oct	15:45:20	10,000 @ \$0.230	***111 BC Ltd.	Englesby	10,000 @ \$0.225	\$0.005	1
9	04 Oct	14:20:54	10,000 @ \$0.230	***111 BC Ltd.	Englesby	10,000 @ \$0.230	\$0.005	1
10	05 Oct	14:35:36	50,000 @ \$0.230	Investor B	Englesby	50,000 @ \$0.230	\$0.005	1
11	09 Oct	10:56:56	25,000 @ \$0.225	Investor B	Nishimura	25,000 @ \$0.220	\$0.005	1
12	09 Oct	13:04:46	25,000 @ \$0.220	Investor B	Nishimura	19,000 @ \$0.220	\$0.005	1
13	09 Oct	14:50:41	25,000 @ \$0.220	Investor B	Nishimura	25,000 @ \$0.220	\$0.010	1
14	09 Oct	15:37:16	50,000 @ \$0.220	P Capital Corp.	Nishimura	50,000 @ \$0.215	\$0.005	1
15	09 Oct	15:56:48	50,000 @ \$0.220	P Capital Corp.	Nishimura	27,000 @ \$0.215 23,000 @ \$0.220	\$0.010	2
16	10 Oct	09:33:27	28,000 @ \$0.220	P Capital Corp.	Nishimura	28,000 @ \$0.220	\$0.005	1
17	10 Oct	13:50:30	25,000 @ \$0.225	P Capital Corp.	Nishimura	24,000 @ \$0.220 1,000 @ \$0.225	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
18	11 Oct	15:45:56	10,000 @ \$0.230	P Capital Corp.	Englesby	9,500 @ \$0.225 500 @ \$0.230	\$0.010	2
19	11 Oct	15:57:33	50,000 @ \$0.230	***111 BC Ltd.	Nishimura	20,000 @ \$0.225 30,000 @ \$0.230	\$0.010	2
20	11 Oct	15:58:50	50,000 @ \$0.235	P Capital Corp.	Englesby	20,500 @ \$0.230 25,000 @ \$0.235	\$0.005	1
21	12 Oct	11:38:28	10,000 @ \$0.240	P Capital Corp.	Englesby	10,000 @ \$0.240	\$0.005	1
22	12 Oct	13:18:10	25,000 @ \$0.250	Investor A	Englesby	25,000 @ \$0.245	\$0.005	1
23	12 Oct	13:20:00	10,000 @ \$0.250	P Capital Corp.	Englesby	10,000 @ \$0.250	\$0.005	1
					Totals	548,500 shares		29

Table 2 – Execution of Sales of Share Purchase Warrant Holders and Relevant Activity of Client Accounts in Relation to those Sales

Date	Order Entry Time (ET)	Sell Order Details	Account Holder	Order Created by	Fill Details	Summary of Activity by Client Accounts
02 Oct	13:25:59	55,000 @ \$0.205	KM	Englesby	55,000 @ \$0.205	Increased share price to \$0.21 before the entry of this order
02 Oct	13:30:01	125,000 @ \$0.205	ME*	Englesby	125,000 @ \$0.205	Increased share price above \$0.20 after a decline during the completion of this order
03 Oct	10:50:44	300,000 @ \$0.220	A Holdings	Englesby	300,000 @ \$0.220	Increased share price to \$0.23 immediately after this order is filled
05 Oct	15:29:49	375,000 @ \$0.230	C F Holdings*	Englesby	112,000 @ \$0.230	Increased the share price to \$0.22 twice over the next day before amending the limit price to \$0.22
09 Oct	14:03:14	263,000 @ \$0.220	C F Holdings*	Englesby	263,000 @ \$0.220	Increased the share price five times from 09-10 Oct until this order is filled
11 Oct	15:53:19	330,000 @ \$0.220	DO	Englesby	330,000 @ \$0.220	Increased share price to \$0.23 before the entry of this order, and again to \$0.235 immediately after this order is filled
11 Oct	15:53:33	750,000 @ \$0.220	JM*	Englesby	750,000 @ \$0.220	See above comments for DO
11 Oct	15:53:44	750,000 @ \$0.220	KDB Investments*	Englesby	750,000 @ \$0.220	See above comments for DO
12 Oct	13:12:25	100,000 @ \$0.240	TR*	Englesby	100,000 @ \$0.240	Increased share price to \$0.24 before the entry of this order
12 Oct	14:33:12	100,000 @ \$0.255	JR	Englesby	100,000 @ \$0.255	Increased the share price to \$0.25 immediately after the fill for T. Ross and

Date	Order Entry Time (ET)	Sell Order Details	Account Holder	Order Created by	Fill Details	Summary of Activity by Client Accounts
						before the entry of this order
				Total	2,885,000	

*executed as Short Sales

Table 3 – Active Buy Orders for the Client Accounts (Phase 2: October 15 to December 7, 2012)

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	15 Oct	09:32:03	20,000 @ \$0.260	P Capital Corp.	Nishimura	8,000 @ \$0.255 10,000 @ \$0.260	\$0.010	2
2	15 Oct	10:32:22	10,000 @ \$0.265	P Capital Corp.	Nishimura	10,000 @ \$0.260	\$0.010	1
3	15 Oct	11:47:18	10,000 @ \$0.260	P Capital Corp.	Nishimura	10,000 @ \$0.255	\$0.005	1
4	15 Oct	11:47:31	10,000 @ \$0.260	P Capital Corp.	Nishimura	4,000 @ \$0.255 6,000 @ \$0.260	\$0.005	1
5	15 Oct	14:33:19	10,000 @ \$0.265	P Capital Corp.	Nishimura	9,000 @ \$0.265	\$0.005	1
6	16 Oct	09:36:47	20,000 @ \$0.280	***111 BC Ltd.	Nishimura	20,000 @ \$0.280	\$0.010	1
7	16 Oct	10:37:12	30,000 @ \$0.285	***111 BC Ltd.	Nishimura	30,000 @ \$0.285	\$0.005	1
8	16 Oct	12:41:58	10,000 @ \$0.285	***111 BC Ltd.	Englesby	10,000 @ \$0.285	\$0.005	1
9	16 Oct	14:09:25	5,000 @ \$0.270	P Capital Corp.	Englesby	5,000 @ \$0.270	\$0.005	1
10	16 Oct	15:45:15	40,000 @ \$0.270	Investor A	Englesby	40,000 @ \$0.270	\$0.005	1
11	17 Oct	13:31:25	5,000 @ \$0.275	P Capital Corp.	Englesby	5,000 @ \$0.275	\$0.005	1
12	18 Oct	09:29:33	50,000 @ \$0.290	***111 BC Ltd.	Englesby	50,000 @ \$0.290	\$0.005	1
13	18 Oct	11:43:09	10,000 @ \$0.285	Investor A	Nishimura	5,500 @ \$0.280 4,500 @ \$0.285	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
14	18 Oct	12:41:43	25,000 @ \$0.285	***111 BC Ltd.	Nishimura	11,500 @ \$0.280 13,500 @ \$0.285	\$0.005	1
15	19 Oct	10:19:19	1,000 @ \$0.285	Investor B	Nishimura	1,000 @ \$0.280	\$0.005	1
16	19 Oct	12:19:24	100,000 @ \$0.300	***111 BC Ltd.	Englesby	13,000 @ \$0.280 27,000 @ \$0.285	\$0.025	4
17	22 Oct	12:43:20	1,834 @ \$0.300	Investor B	Englesby	1,834 @ \$0.300	\$0.005	1
18	22 Oct	13:26:21	25,000 @ \$0.300	Investor B	Nishimura	15,000 @ \$0.295 10,000 @ \$0.300	\$0.005	1
19	23 Oct	10:10:43	100,000 @ \$0.275	Investor B	Nishimura	100,000 @ \$0.275	\$0.005	1
20	25 Oct	12:02:03	25,000 @ \$0.280	Investor B	Nishimura	25,000 @ \$0.280	\$0.005	1
21	30 Oct	12:14:30	10,000 @ \$0.270	Investor A	Nishimura	4,500 @ \$0.265 5,500 @ \$0.270	\$0.005	1
22	30 Oct	14:31:07	10,000 @ \$0.270	Investor A	Nishimura	10,000 @ \$0.270	\$0.005	1
23	31 Oct	12:38:57	15,000 @ \$0.270	Investor A	Englesby	15,000 @ \$0.270	\$0.005	1
24	01 Nov	09:38:07	10,000 @ \$0.280	Investor A	Englesby	5,000 @ \$0.275 5,000 @ \$0.280	\$0.015	2
25	01 Nov	13:13:51	105,000 @ \$0.280	Investor A	Englesby	1,000 @ \$0.270 104,000 @ \$0.275	\$0.010	2
26	01 Nov	13:48:56	12,000 @ \$0.280	Investor A	Englesby	4,000 @ \$0.270 7,000 @ \$0.275	\$0.010	2
27	02 Nov	10:15:58	20,000 @ \$0.275	P Capital Corp.	Englesby	15,000 @ \$0.270 5,000 @ \$0.275	\$0.005	1
28	02 Nov	13:56:11	150,000 @ \$0.270	P Capital Corp.	Nishimura	150,000 @ \$0.270	\$0.005	1
29	02 Nov	14:02:25	125,000 @ \$0.275	P Capital Corp.	Englesby	122,500 @ \$0.275	\$0.005	1
30	02 Nov	15:43:46	10,000 @ \$0.270	P Capital Corp.	Englesby	10,000 @ \$0.270	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
31	05 Nov	12:32:27	150,000 @ \$0.280	P Capital Corp.	Englesby	147,000 @ \$0.270 3,000 @ \$0.275	\$0.010	2
32	05 Nov	12:33:17	150,000 @ \$0.280	P Capital Corp.	Englesby	150,000 @ \$0.280	\$0.005	1
33	05 Nov	12:41:20	50,000 @ \$0.300	P Capital Corp.	Englesby	25,500 @ \$0.280 24,500 @ \$0.290	\$0.010	1
34	09 Nov	12:06:02	30,000 @ \$0.300	***111 BC Ltd.	Englesby	30,000 @ \$0.300	\$0.005	1
35	12 Nov	09:42:12	24,500 @ \$0.310	Investor B	Nishimura	24,500 @ \$0.305	\$0.005	1
36	13 Nov	10:03:10	10,000 @ \$0.300	***111 BC Ltd.	Englesby	8,000 @ \$0.300	\$0.010	1
37	13 Nov	13:52:34	10,000 @ \$0.300	***111 BC Ltd.	Englesby	10,000 @ \$0.300	\$0.005	1
38	14 Nov	15:40:06	15,000 @ \$0.305	***111 BC Ltd.	Englesby	8,000 @ \$0.295 7,000 @ \$0.300	\$0.005	1
39	15 Nov	11:43:23	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	9,000 @ \$0.295 1,000 @ \$0.300	\$0.010	2
40	15 Nov	13:32:32	10,000 @ \$0.295	***111 BC Ltd.	Englesby	1,000 @ \$0.285 6,000 @ \$0.290 3,000 @ \$0.295	\$0.010	3
41	16 Nov	09:30:53	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	8,000 @ \$0.295 2,000 @ \$0.300	\$0.010	2
42	16 Nov	12:03:12	20,000 @ \$0.290	***111 BC Ltd.	Nishimura	14,000 @ \$0.285 6,000 @ \$0.290	\$0.005	1
43	16 Nov	13:04:06	20,000 @ \$0.300	***111 BC Ltd.	Englesby	20,000 @ \$0.295	\$0.005	1
44	16 Nov	13:41:16	10,000 @ \$0.300	***111 BC Ltd.	Nishimura	10,000 @ \$0.300	\$0.010	1
45	19 Nov	09:46:31	25,000 @ \$0.310	***111 BC Ltd.	Englesby	25,000 @ \$0.305	\$0.005	1
46	19 Nov	11:23:10	25,000 @ \$0.305	***111 BC Ltd.	Nishimura	25,000 @ \$0.300	\$0.005	1
47	19 Nov	12:00:58	30,000 @ \$0.305	***111 BC Ltd.	Englesby	30,000 @ \$0.305	\$0.005	1
48	30 Nov	12:14:33	25,000 @ \$0.295	Investor A	Englesby	25,000 @ \$0.295	\$0.005	1
49	03 Dec	15:16:58	75,000 @ \$0.325	Investor A	Englesby	10,000 @ \$0.310 25,000 @ \$0.315 40,000 @ \$0.320	\$0.010	2
50	03 Dec	15:22:38	100,000 @ \$0.330	Investor A	Englesby	5,000 @ \$0.320 11,000 @ \$0.325 84,000 @ \$0.330	\$0.005	1
51	05 Dec	12:58:31	25,000 @ \$0.335	Investor A	Nishimura	23,500 @ \$0.330 1,500 @ \$0.335	\$0.005	1
52	05 Dec	14:43:52	25,000 @ \$0.335	Investor A	Englesby	25,000 @ \$0.335	\$0.005	1
53	06 Dec	12:36:15	25,000 @ \$0.335	Investor A	Nishimura	25,000 @ \$0.335	\$0.005	1
54	07 Dec	09:41:55	100,000 @ \$0.340	Investor A	Englesby	3,000 @ \$0.335 97,000 @ @0.340	\$0.015	2
					Totals	1,941,834 shares		68

**Table 4 – Active Buy Orders for the Client Accounts
(Phase 3: December 10, 2012 to January 23, 2013)**

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
1	10 Dec	10:02:00	10,000 @ \$0.350	P Capital Corp.	Nishimura	2,000 @ \$0.335 8,000 @ \$0.340	\$0.010	3
2	10 Dec	10:58:41	10,000 @ \$0.345	P Capital Corp.	Nishimura	10,000 @ \$0.345	\$0.005	1
3	10 Dec	15:01:33	60,000 @ \$0.360	Investor B	Nishimura	59,000 @ \$0.355 1,000 @ \$0.360	\$0.010	2
4	11 Dec	10:54:24	20,000 @ \$0.360	Investor B	Nishimura	3,500 @ \$0.350 16,000 @ \$0.355 500 @ \$0.360	\$0.015	3
5	11 Dec	14:56:24	20,000 @ \$0.365	Investor B	Englesby	11,500 @ \$0.355 5,000 @ \$0.360 3,500 @ \$0.365	\$0.010	3
6	12 Dec	09:52:02	100,000 @ \$0.370	Investor B	Nishimura	22,500 @ \$0.360 51,000 @ \$0.365 26,500 @ \$0.370	\$0.010	2
7	12 Dec	14:03:47	20,000 @ \$0.380	Investor B	Nishimura	20,000 @ \$0.380	\$0.005	1
8	14 Dec	09:34:44	10,000 @ \$0.405	Investor B	Englesby	5,500 @ \$0.400 4,500 @ \$0.405	\$0.005	1
9	14 Dec	13:28:03	10,000 @ \$0.415	Investor B	Englesby	6,000 @ \$0.410 4,000 @ \$0.415	\$0.010	3
10	17 Dec	09:36:25	10,000 @ \$0.420	Investor B	Nishimura	10,000 @ \$0.420	\$0.005	1
11	17 Dec	15:37:42	10,000 @ \$0.400	Investor B	Nishimura	10,000 @ \$0.400	\$0.005	1
12	18 Dec	13:00:30	10,000 @ \$0.385	Investor B	Nishimura	10,000 @ \$0.385	\$0.010	1
13	19 Dec	09:34:35	15,000 @ \$0.390	Investor B	Nishimura	13,500 @ \$0.385 1,500 @ \$0.390	\$0.010	2
14	19 Dec	12:57:54	80,000 @ \$0.370	***111 BC Ltd.	Englesby	80,000 @ \$0.370	\$0.005	1
15	20 Dec	09:40:54	20,000 @ \$0.370	***111 BC Ltd.	Nishimura	17,500 @ \$0.365 2,500 @ \$0.370	\$0.010	2
16	20 Dec	14:46:10	25,000 @ \$0.375	***111 BC Ltd.	Englesby	19,000 @ \$0.370 6,000 @ \$0.375	\$0.010	2
17	21 Dec	12:38:03	10,000 @ \$0.380	***111 BC Ltd.	Englesby	10,000 @ \$0.380	\$0.010	1
18	21 Dec	13:20:35	10,000 @ \$0.375	***111 BC Ltd.	Englesby	10,000 @ \$0.375	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
19	21 Dec	14:34:13	25,000 @ \$0.375	***111 BC Ltd.	Englesby	13,000 @ \$0.370 12,000 @ \$0.375	\$0.005	1
20	24 Dec	11:28:59	15,000 @ \$0.370	***111 BC Ltd.	Englesby	15,000 @ \$0.360	\$0.005	1
21	24 Dec	12:49:51	10,000 @ \$0.360	***111 BC Ltd.	Englesby	10,000 @ \$0.360	\$0.010	1
22	27 Dec	09:36:51	10,000 @ \$0.360	***111 BC Ltd.	Nishimura	1,000 @ \$0.355 9,000 @ \$0.360	\$0.010	2
23	27 Dec	10:31:37	10,000 @ \$0.365	***111 BC Ltd.	Nishimura	10,000 @ \$0.365	\$0.005	1
24	27 Dec	11:23:16	1,000 @ \$0.370	Investor B	Nishimura	1,000 @ \$0.370	\$0.010	1
25	27 Dec	14:49:59	25,000 @ \$0.360	***111 BC Ltd.	Nishimura	4,500 @ \$0.355 20,500 @ \$0.360	\$0.005	2
26	28 Dec	10:46:41	20,000 @ \$0.370	***111 BC Ltd.	Englesby	20,000 @ \$0.365	\$0.010	1
27	28 Dec	11:39:02	10,000 @ \$0.370	***111 BC Ltd.	Englesby	10,000 @ \$0.365	\$0.005	1
28	28 Dec	11:43:28	10,000 @ \$0.370	***111 BC Ltd.	Englesby	10,000 @ \$0.370	\$0.005	1
29	02 Jan	12:20:38	20,000 @ \$0.390	Investor A	Nishimura	1,000 @ \$0.390	\$0.005	1
30	03 Jan	13:26:43	40,000 @ \$0.400	P Capital Corp.	Nishimura	38,500 @ \$0.395 1,500 @ \$0.400	\$0.005	1
31	03 Jan	15:05:21	20,000 @ \$0.400	P Capital Corp.	Nishimura	20,000 @ \$0.395	\$0.005	1
32	04 Jan	12:04:59	25,000 @ \$0.390	P Capital Corp.	Nishimura	25,000 @ \$0.390	\$0.005	1
33	04 Jan	13:22:22	10,000 @ \$0.400	P Capital Corp.	Nishimura	3,000 @ \$0.390 7,000 @ \$0.395	\$0.005	1
34	07 Jan	10:46:08	20,000 @ \$0.390	P Capital Corp.	Englesby	12,500 @ \$0.385 7,500 @ \$0.390	\$0.005	1
35	08 Jan	13:08:19	10,000 @ \$0.390	P Capital Corp.	Nishimura	7,500 @ \$0.385 2,500 @ \$0.390	\$0.005	1
36	08 Jan	14:42:06	30,000 @ \$0.390	P Capital Corp.	Nishimura	30,000 @ \$0.390	\$0.005	1
37	09 Jan	11:50:24	50,000 @ \$0.395	P Capital Corp.	Nishimura	35,500 @ \$0.390 14,500 @ \$0.395	\$0.005	2
38	10 Jan	09:33:28	20,000 @ \$0.400	P Capital Corp.	Englesby	18,500 @ \$0.395 1,500 @ \$0.400	\$0.020	2
39	10 Jan	13:46:32	15,000 @ \$0.400	P Capital Corp.	Englesby	15,000 @ \$0.400	\$0.005	1
40	17 Jan	11:46:35	10,000 @ \$0.375	Investor B	Englesby	10,000 @ \$0.375	\$0.005	1

	Date	Order Entry Time (ET)	Buy Order Details	Account Holder	Order Entered by	Fill Details	Absolute Price Change	# of upticks
41	17 Jan	13:03:40	10,000 @ \$0.375	Investor B	Englesby	10,000 @ \$0.375	\$0.005	1
42	18 Jan	14:18:06	20,000 @ \$0.360	Investor B	Englesby	20,000 @ \$0.360	\$0.005	1
43	21 Jan	09:37:57	8,500 @ \$0.370	***111 BC Ltd.	Nishimura	2,000 @ \$0.355 1,000 @ \$0.360 3,000 @ \$0.365 2,500 @ \$0.370	\$0.015	3
44	21 Jan	11:34:59	10,000 @ \$0.380	***111 BC Ltd.	Nishimura	3,500 @ \$0.360 1,500 @ \$0.365 3,000 @ \$0.375 2,000 @ \$0.380	\$0.020	3
45	22 Jan	09:54:11	10,000 @ \$0.370	***111 BC Ltd.	Nishimura	10,000 @ \$0.365	\$0.015	1
46	22 Jan	14:55:46	10,000 @ \$0.370	***111 BC Ltd.	Englesby	8,000 @ \$0.360 2,000 @ \$0.370	\$0.005	1
47	23 Jan	09:30:20	400,000 @ \$0.385	***111 BC Ltd.	Englesby	6,000 @ \$0.350 1,000 @ \$0.355 2,000 @ \$0.360 7,000 @ \$0.365 93,000 @ \$0.370 15,000 @ \$0.380 276,000 @ \$0.385	\$0.020	7
48	23 Jan	09:30:47	25,000 @ \$0.385	***111 BC Ltd.	Englesby	24,000 @ \$0.385	0.020	1
49	23 Jan	10:11:48	20,000 @ \$0.390	Investor A	Nishimura	4,000 @ \$0.380 16,000 @ \$0.385	\$0.005	1
50	23 Jan	10:37:10	10,000 @ \$0.385	Investor A	Englesby	10,000 @ \$0.385	\$0.005	1
51	23 Jan	14:10:34	5,000 @ \$0.365	Investor A	Nishimura	5,000 @ \$0.365	\$0.005	1
52	23 Jan	14:53:55	5,000 @ \$0.365	Investor A	Englesby	5,000 @ \$0.365	\$0.010	1
					Totals	1,369,500 shares		79

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