

# Collias & Young (Re)

IN THE MATTER OF:

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

AND

**THE BY-LAWS OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA**

AND

**JOHN ANASTASIOUS COLLIAS**

AND

**KAREN MARIE YOUNG**

2010 IIROC 30

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

Heard: June 2, 2010 in Vancouver, BC

Decision: July 5, 2010

(37 paras.)

## **Hearing Panel:**

John Rogers, Chair, Brian Field and Dave Pearson

## **Appearance:**

Wietzke Gerber, Enforcement Counsel, for the Investment Industry Regulatory Organization of Canada  
Dana H. Prince., Getz Prince Wells LLP, Barristers & Solicitors, for the Respondents

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## **REASONS FOR DECISION**

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¶ 1 A Hearing Panel of the Investment Industry Regulatory Organization of Canada (“IIROC”) was convened on June 2, 2010 to review settlement agreements (“Settlement Agreements”) negotiated between the Enforcement Department of IIROC (“IIROC Staff”) and John Anastasious Collias and Karen Marie Young (collectively “the Respondents”) in accordance with Rule 20.35 of Part 10 of the IIROC Dealer Member Rules (the “Rules”) and Rule 15 of the Dealer Member Rules of Practice and Procedure. Copies of the Settlement Agreements are attached to this decision.

### **Panel Composition**

¶ 2 The Hearing Panel seized of this matter originally included Mr. Chris Lay. Mr. Lay was unable to attend this settlement agreement hearing. With the consent of the parties, Mr. Dave Pearson became the third

member of the Hearing Panel.

## **Statement of Facts**

¶ 3 The Settlement Agreements contain certain facts agreed to by IIROC and the Respondents for the purpose of the Settlement Agreements. A summary of these facts are below set out.

¶ 4 The Respondents were employed by IIROC member firms, from July 1996 in the case of Mr. Collias, and from November 2000 in the case of Ms. Young. Both Respondents voluntarily resigned their employment in May of 2008.

¶ 5 The Respondents as employees of Gateway Securities Inc. (“Gateway”), an IIROC member firm, operated an institutional delivery against payment account for HBL (the “HBL Account”) from February 26, 2007 to August 14, 2007 (the “Relevant Period”). HBL is a subsidiary of a European bank domiciled in Liechtenstein. The securities in the HBL Account were traded in such a manner that neither Gateway nor its carrying broker ever held or cleared any of them.

¶ 6 Trading in the HBL Account primarily consisted of securities quoted on the OTCBB and Pink Sheets. During the Relevant Period, the HBL account traded over \$33 million of these securities, over 70% of this value comprising securities of 10 issuers. These trades generated commissions of \$42,121 for Mr. Collias and \$123,554 for Ms. Young.

¶ 7 The majority of issuers whose securities were traded through the HBL Account had no history of generating operating revenues and their price and volume charts were consistent with a “pump and dump” scheme or improper market-related activity. Unbeknownst to the Respondents, some of these securities were subject to spam email promotional campaigns.

¶ 8 HBL maintained accounts with other Vancouver-based securities dealers, some of whom facilitated trades during the Relevant Period in securities similar to and trading in a manner similar to those traded by the Respondents, but on a less frequent basis.

¶ 9 The Respondents facilitated transactions in the HBL Account without making sufficient inquiries to satisfy themselves of the legitimacy of the trading activity in circumstances which should have called the trading activity into question because it had the appearance of being or potentially being improper market-related activity.

¶ 10 Notwithstanding the Respondents’ failure to meet the standard required of them in their role as gatekeepers, there were the following mitigating factors:

1. The Respondents’ failure was not intentional, having no knowledge of any improper trading scheme or improper market-related trading activity in the HBL Account transactions;
2. The trading in the HBL Account was reviewed daily by Gateway’s Chief Compliance Officer who did not raise any questions or concerns about it;
3. The Respondents were subject to “close supervision” and according to Gateway, the Respondents performed satisfactorily during the Relevant Period; and
4. The Respondents received minimal compliance support or direction from Gateway.

## **Contraventions**

¶ 11 The Settlement Agreements contain the Respondents’ admissions that contrary to IIROC Dealer Member Rule 29.1 they, during the Relevant Period, failed to adequately perform their role as gatekeepers to the capital markets by accepting trading instructions for a client account without exercising the standard of care expected of a registrant to satisfy themselves of the legitimacy of the trading activity in circumstances which should have called the trading activity into question.

## **Terms of Settlement**

¶ 12 In the Settlement Agreements, IIROC Staff and the Respondents agree to the following terms of settlement:

1. For Mr. Collias:
  - a. an eight-month ban from receiving registration approval in any capacity with any IIROC Dealer Member;
  - b. payment of a fine of \$20,000; and
  - c. payment of costs to IIROC of \$5,000; and
2. For Ms. Young:
  - a. an eight-month ban, not running concurrently with any other ban, from receiving registration approval in any capacity with any IIROC Dealer Member;
  - b. payment of a fine of \$20,000; and
  - c. payment of costs to IIROC of \$5,000.

## Decision

¶ 13 The Hearing Panel accepts the Settlement Agreements.

## Reasons

¶ 14 Rule 20.36 empowers a Hearing Panel upon the conclusion of a settlement agreement hearing to either accept or reject the settlement agreement under consideration. Neither in Rule 20.36 nor elsewhere in the Rules is there guidance for what criteria a Hearing Panel should use in making this decision.

### *Appropriateness of Penalty*

¶ 15 In *Re Mills* [2001 I.D.A.C.D. No. 7 @ pg. 3, the Hearing Panel made the following observation concerning the responsibility of a Hearing Panel when determining an appropriate penalty in a matter before it:

Industry expectations and understanding are particularly relevant to general deterrence. If a penalty is less than industry understanding would lead its Members to expect for the conduct under consideration, it may undermine the goals of the Association's disciplinary process; similarly, excessive penalties may reduce respect for the process and concomitantly diminish its deterrent effect. Thus the responsibility of the District Council in a penalty hearing is to determine a penalty appropriate to the conduct and respondent before it, reflecting that its primary purpose is prevention rather than punishment.

¶ 16 In coming to our decision as to whether or not the penalties included in the Settlement Agreements meet the test of penalties appropriate to the Respondents' conduct, we considered the following decisions dealing with registrants failing to adequately carry out their role as gatekeepers to the capital markets: *Re Faiello* [2007] I.D.A.C.D. No. 4, January 24, 2007; *Re Ng* [2007] I.D.A.C.D. No. 47, Panel Decision July 27, 2007, Penalty Decision December 20, 2007; *Re Kasman* 2009 LNONOSC 502, (2009) 32 OSCB 5729, Ontario Securities Commission July 14, 2009; and *Re Taub* [2010] IIROC No. 2, January 18, 2010.

¶ 17 The *Faiello* and *Ng* matters both dealt with what one Hearing Panel characterized as a sophisticated large scale pump and dump market manipulation of the shares of Pender International Inc. This market manipulation involved the trading in one stock over a period of approximately 2 months. Neither of the respondents knew that they were involved in a market manipulation. The evidence before the Hearing Panel in the *Faiello* matter was that Mr. Faiello earned a total of \$12,694.59 in commissions from trading in these securities. There was no mention of the commissions earned by Mr. Ng in his involvement in the trading of the shares of Pender International Inc., but the decision sets out that whatever commissions Mr. Ng earned from these trades, he forfeited to his employer together with 50% of commissions he had earned from other trading activity during this time period. Mr. Ng had no previous disciplinary history, and there was no reference to a disciplinary history for Mr. Faiello.

¶ 18 The penalty in both these matters was a 2 year suspension. Mr. Faiello in a settlement agreement consented to this suspension, a fine of \$20,000 and costs of \$5,000. The *Ng* decision resulted from a disciplinary hearing. As well as the suspension, Mr. Ng was assessed a fine of \$40,000 and costs of \$25,000.

¶ 19 *Kasman* is a decision of the Ontario Securities Commission on an appeal by the staff of the Investment Dealers Association of Canada (“IDA Staff”) of a decision on penalty (the “Penalty”) rendered by the Ontario District Council of the Investment Dealers Association of Canada (the “District Council”). The activity complained of centered around the trading of the shares of one company, American Motorcycle Corporation. In its decision on the Penalty, the District Council held that although IDA Staff did not establish all the aspects that often appear with a successful pump and dump market manipulation, there was no question that over a 3 month period in the trading of this stock, the trading was manipulative and/or deceptive. The District Council found that the respondents were unaware of the impact this trading had on the market for this stock.

¶ 20 The Penalty imposed by the District Council for each respondent in *Kasman* was a 2 month suspension, a fine of \$25,000 and joint costs of \$40,000. Among the mitigating factors found by the District Council were the fact that the dollar value of the trading conducted by the respondents was relatively minor, the respondents had no prior record of offences, and the gross commissions earned by them collectively was approximately \$14,000.

¶ 21 In dismissing the IDA Staff’s appeal, the Commission determined that the District Council did not proceed on any incorrect principle or make any other error that would justify its intervention in altering the Penalty.

¶ 22 *Taub* was a decision of a Hearing Panel on a settlement agreement. Mr. Taub admitted in the settlement agreement that over a period of approximately four and a half years he had failed in his role as gatekeeper by facilitating trading activity for certain clients, which trading potentially constituted illegal, manipulative, deceptive or an improper control block distribution.

¶ 23 In the settlement agreement the parties agreed to a penalty of a permanent ban from registration, a fine of \$50,000, and costs in the amount \$15,000.

¶ 24 In determining to accept this penalty, the Hearing Panel observed that although the fine was “perhaps lower than one might expect”, the penalty was reasonable as it included the removal of Mr. Taub from the investment industry.

¶ 25 In the matter at hand, the agreed upon penalties consist of suspensions of 8 months and a fine of \$20,000 for each of the Respondents. When compared to the decisions referred to above, these penalties appear to be extremely lenient considering the following:

1. *Time Period of Offence:* In the matter at hand, the trading in question lasted over almost a 6 month period. In *Faiello* and *Ng* the trading period was 2 months and yet the respondents were suspended for 2 years;
2. *Previous Disciplinary History:* Mr. Ng had no previous disciplinary history nor did the respondents in *Kasman*. In the matter at hand, there was no reference to any prior disciplinary history. However, both Respondents were on close supervision when the imputed trading occurred;
3. *Commissions Earned:* The Respondents were involved in trades of over \$33 million in value, comprising securities of at least 10 issuers, and earning commissions of \$42,121 for Mr. Collias and \$123,554 for Ms. Young. There was no reference to the disgorging of these commissions. Mr. Faiello earned a total of \$12,694.59 in commissions and Mr. Ng was required to disgorge his commissions and contribute additional sums. In *Kasman* the commissions earned were approximately \$14,000 in aggregate. In all three of these decisions, the securities of only one issuer were traded; and
4. *Amounts Involved:* In *Kasman* the District Council considered as a mitigating factor the fact that the trading amounts were small. In the matter at hand, there were over 67 million shares traded with a

value of over \$33 million.

### ***Mitigating Factors***

¶ 26 The Settlement Agreements each contain the same mitigating factors. These mitigating factors although four in number, are really based on two elements – lack of the Respondents’ knowledge and the failure of adequate supervision by the Respondents’ employer, Gateway.

¶ 27 As a Hearing Panel, we have difficulty accepting that in the trading of over sixty seven million shares listed on the Pink Sheets and OTBB, with a trading value of over thirty three million dollars, performed over a six month period, that the Respondents did not have any suspicion that the trading in which they were engaged might involve questionable practices.

¶ 28 However, what is of greater concern to us is the fact that the Settlement Agreements list as 3 mitigating factors the lack of supervision or compliance support to the Respondents offered by their employer, Gateway.

¶ 29 In *Ng* the respondent argued that as Mr. Ng’s branch manager and his supervising compliance officer both had knowledge of Mr. Ng’s trading activities and that as they did nothing to alert Mr. Ng to the possibility of stock manipulation, Mr. Ng’s culpability was thereby reduced. In rejecting this assertion as a mitigating factor, the Hearing Panel observed that the conduct of Mr. Ng’s branch manager and his supervising compliance officer was totally irrelevant to the Hearing Panel’s determination of an appropriate sanction for Mr. Ng. The Hearing Panel determined that it must judge Mr. Ng based on his conduct, not upon that of others.

¶ 30 Similarly in the *Kasman* decision. The respondents in this matter argued as a mitigating factor a weak culture of compliance and compliance support offered by their employer. The Hearing Panel in *Kasman* observed as reported at pg. 4 of the referenced decision:

..... while a good compliance culture and a decent compliance infrastructure can be of great assistance and comfort to a registered representative and may permit reasonable reliance by the registered representative on the firm in appropriate circumstances, the lack of a decent compliance infrastructure does not obviate the primary responsibilities and duties of a registered representative to his clients, his firm and the market.

¶ 31 We agree with and adopt the sentiments expressed by the Hearing Panels in these two decisions. The Respondents cannot shift the blame for their activities onto their employer, no matter how lax might have been the compliance culture in which they were working. The Respondents themselves were responsible for ensuring that their actions in carrying out the trading instructions of their client were in full compliance with their obligation to perform their roles as gatekeepers to the capital markets.

### ***Settlement Agreement Considerations***

¶ 32 If the matter before us were a disciplinary hearing, based upon the facts disclosed in the Settlement Agreements, the penalties we would have assessed upon a finding of liability would have been much more onerous than those agreed to by the parties and much closer to those assessed in *Ng* and *Faiello*.

¶ 33 However, the matter before us is not a disciplinary hearing. It is a settlement agreement hearing whereby we are charged solely to accept or reject the Settlement Agreements. Our feelings on appropriate penalties must, therefore, be tempered and fit within the context of a settlement agreement hearing.

¶ 34 The decisions of Hearing Panels in *Milewski* [1999] I.D.A.C.D. No. 17, Bulletin No. 2605, August 5, 1999, and *Clark* [1999] I.D.A.C.D. No. 40, Bulletin No. 2674, December 14, 1999 highlight the difference in approach a Hearing Panel should take when determining whether or not to accept a settlement agreement.

¶ 35 These decisions collectively suggest that the test that a Hearing Panel should use in determining whether or not to accept a settlement agreement is whether or not the settlement agreement reached between the respondent and IIROC Staff includes a penalty which “clearly” falls outside a reasonable range of appropriateness. If in the opinion of the Hearing Panel the penalty clearly falls outside this reasonable range, the Hearing Panel should not accept the settlement agreement. Otherwise it should do so. The rationale behind

this approach is that a Hearing Panel should be cognizant of the settlement process and should not interfere in a negotiated settlement by attempting to substitute its discretion for that of the parties.

¶ 36 Counsel for both IIROC Staff and the Respondents urged upon us the acceptance of the Settlement Agreements. We are mindful of the process leading to the signing of these agreements and to the rationale requiring us to find that the penalties agreed to by the parties and reflected in these agreements are wholly inappropriate prior to rejecting them. In other words, that we should reject a settlement agreement only in rare circumstances and with considerable caution, and not merely as a result of preferring our opinion on penalties over those agreed to by the parties.

¶ 37 As we are unable to find that the penalties contained in the Settlement Agreements clearly fall outside the reasonable range of appropriateness we accept the Settlement Agreements.

Dated at Vancouver, British Columbia, this 5<sup>th</sup> day of July, 2010.

John Rogers, Chair

Brian Field

Dave Pearson

**\* \* \* \* SETTLEMENT AGREEMENT - COLLIAS \* \* \* \***

**I. Introduction**

1. IIROC Enforcement Staff and John Anastasious Collias (Collias) consent and agree to the settlement of this matter by way of this settlement agreement (the Settlement Agreement).
2. The Enforcement Department of IIROC conducted an investigation (the Investigation) into the conduct of Collias.
3. The Investigation was commenced by Enforcement Department Staff prior to May 30, 2008. On June 1, 2008, IIROC consolidated the regulatory and enforcement functions of the IDA and Market Regulation Services Inc. Pursuant to the *Administrative and Regulatory Services Agreement* between IDA and IIROC, effective June 1, 2008, the IDA has retained IIROC to provide services for IDA to carry out its regulatory functions.
4. The Investigation discloses matters for which Collias may be disciplined by a hearing panel appointed pursuant to IIROC Transitional Rule No.1, Schedule C.1, Part C (the Hearing Panel).

**II. Joint Settlement Recommendation**

5. Staff and Collias jointly recommend that the Hearing Panel accept the Settlement Agreement.

**CONTRAVENTIONS AND TERMS OF SETTLEMENT**

6. Collias admits that from February 26, 2007 to August 14, 2007 (the Relevant Period) while employed as a Registered Representative (RR) by Gateway Securities Inc. (Gateway), a Member firm, Collias failed to adequately perform his role as a gatekeeper to the capital markets by accepting trading instructions for a client account without exercising the standard of care expected of a registrant to satisfy himself of the legitimacy of the trading activity in circumstances which should have called the trading activity into question, contrary to Dealer Member Rule 29.1.
7. Staff and Collias agree to the following terms of settlement:
  - (a) An eight-month ban from receiving registration approval in any capacity with any Dealer Member of IIROC; and
  - (b) A fine of \$20,000.

8. Collias agrees to pay costs to IIROC in the sum of \$5,000.

### III. Statement of Facts

9. Staff and Collias agree, solely for the purposes of this Settlement Agreement, with the facts set out in Section III and acknowledge that the terms of the settlement contained in this Settlement Agreement are based upon those specific facts.

#### A: RESPONDENT

10. Collias was employed as an RR by Gateway, an introducing broker and IDA/IIROC Member.

11. Collias was employed by Member firms in a registered capacity from July 1996 until May 2008, when he voluntarily resigned.

#### B: PARTICULARS OF CONTRAVENTION

##### The Client Account

12. Collias, with another RR, operated an institutional Delivery Against Payment (DAP) account for HBL (HBL Account) from 2003 and in particular, during the Relevant Period. HBL is a subsidiary of a European bank domiciled in Liechtenstein, a banking and tax secrecy jurisdiction. The securities traded by HBL were settled through Depository Trust Company on a DAP basis and were cleared by HBL's custodian Brown Brothers Harriman. Accordingly, neither Gateway nor its carrying broker ever held or cleared any of the securities that were traded for the HBL Account.

##### Rule 29.1

13. Trading in the HBL Account primarily consisted of the sale of securities quoted on the Over-the-Counter Bulletin Board (OTCBB) and Pink Sheets. OTCBB and Pink Sheet issuers are held to far lower or almost non-existent disclosure standards (quality and frequency) compared to issuers listed on a stock exchange such as the Toronto Stock Exchange (TSX) or the New York Stock Exchange (NYSE). Unlike issuers listed on the TSX or NYSE, there are no minimum asset, revenue, or capitalization requirements for companies whose shares are quoted on the OTCBB or Pink Sheets.

14. During the Relevant Period, the HBL account sold approximately USD\$30 million worth of OTCBB and Pink Sheet securities and generated commissions of approximately \$41,121 for Collias.

15. HBL maintained accounts with other Vancouver-based securities dealers, some of whom facilitated trades during the Relevant Period in securities similar to and in a similar manner to those traded by Collias, but less frequently.

16. The HBL Account began trading at Gateway on February 26, 2007, and continued to trade until August 14, 2007, when Gateway gave a voluntary undertaking to the British Columbia Securities Commission not to execute any further trades for HBL.

17. Trading statistics for HBL Account included:

<b>Trade Values</b>		<b>%</b>
Sales	\$29,562,950	89%
Purchases	\$3,712,431	11%
	<u>\$33,275,381</u>	

**Table 1: HBL Activity Statistics February to August 2007****Volumes**

Sales	60,334,621	90%
Purchases	<u>6,770,017</u>	10%
	<u><u>67,104,638</u></u>	

**Number of issuers**

CAD	1	1%
USD	<u>97</u>	99%
	<u><u>98</u></u>	

**Table 2: Top 10 Issuers by Value Traded February to August 2007**

Issuer (market)	Symbol	Value (\$)	Inv A/C
Americas Wind Energy Corp (OTC)	AWNE	7,039,939	Z9
Upstream Biosciences Inc (OTC)	UPBS	3,649,553	Z9
AC Energy Inc (Pink)	ACEN	3,141,222	Z7
Pure Biofuels Corp (OTC)	PBOF	2,775,387	Z9
Amish Naturals Inc (OTC)	AMNT	2,103,801	Z7
Biopack Envrl Soln Inc (OTC)	BPEV	1,628,886	Z7
L Intl Computers Inc (Pink)	LITL	989,226	Z9
Fsona Systems Corp (OTC)	FSON	924,808	Z9
TM Media Group Inc (Pink)	TMMG	802,521	Z9
Urex Energy Corp (OTC)	URXE	<u>703,392</u>	Z9
		<u><u>\$23,758,735</u></u>	

18. The issuers identified in the tables above each had no history of generating operating revenues and their price and volume charts were consistent with a 'pump and dump' scheme or improper market-related activity. Unknown to Collias, some of the securities referred to in the tables above were subject to spam e-mail promotional campaigns.

19. The volume and value of shares sold of each issuer during the initial 3-month period that the HBL account was in operation at Gateway, was as follows:

**Table 3: Issuers from Table 2 - Volume and Value Traded February to May 2007**

<b>Issuer</b>	<b>Values of Sales (\$)</b>	<b>Volume of Sales</b>	<b>% of i/o shares</b>
Americas Wind Energy	\$4,185,706	2,531,168	11.2
Upstream Biosciences	2,899,231	2,139,141	4.8
AC Energy	3,022,343	3,067,600	4.1
Pure Biofuels	1,609,170	1,255,789	2.0
Amish Naturals	1,651,580	665,700	1.6
Biopack Envrl	853,578	829,300	0.5
L Intl Computers	989,226	6,194,400	5.5
Fsona	843,788	1,526,500	4.0
Systems	643,858	303,300	0.6
TM Media			
Urex Energy	602,602	2,076,184	2.5
	<u>\$14,279,034</u>	<u>21,076,982</u>	

20. Collias facilitated transactions in the HBL Account without making sufficient inquiries to satisfy himself of the legitimacy of the trading activity in circumstances which should have called the trading activity into question because it had the appearance of being or potentially being improper market-related activity.
21. Notwithstanding Collias' failure to meet the standard required of him in his role as a gatekeeper, there were the following mitigating factors:
- Collias' failure was not intentional. He had no knowledge of any improper trading scheme or improper market-related trading activity relating to the HBL Account, or in the securities the HBL Account traded, including any spam e-mail promotional campaigns.
  - The trading in the HBL account was reviewed daily by Gateway's Chief Compliance Officer (CCO), who did not raise any question or concerns about it.
  - Collias was subject to "close supervision". According to Gateway, Collias satisfactorily performed under his close supervision and his monthly close supervision reports were endorsed by the CCO.
  - Collias received minimal compliance support or direction at Gateway.**

**IV. Terms of Settlement**

- 22. This settlement is agreed upon in accordance with IIROC Dealer Member Rules 20.35 to 20.40, inclusive, and Rule 15 of the Dealer Member Rules of Practice and Procedure.
- 23. The Settlement Agreement is subject to acceptance by the Hearing Panel.
- 24. The Settlement Agreement shall become effective and binding upon Collias and Staff as of the date of its acceptance by the Hearing Panel.
- 25. The Settlement Agreement will be presented to the Hearing Panel at a hearing (the Settlement Hearing) for approval. Following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement.
- 26. If the Hearing Panel accepts the Settlement Agreement, Collias waives his right under IIROC rules and any applicable legislation to a disciplinary hearing, review, or appeal.
- 27. If the Hearing Panel rejects the Settlement Agreement, Staff and Collias may enter into another settlement agreement or Staff may proceed to a disciplinary hearing in relation to the matters disclosed in the Investigation.
- 28. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel.
- 29. Staff and Collias agree that if the Hearing Panel accepts the Settlement Agreement, they, or anyone on their behalf, will not make any public statements inconsistent with the Settlement Agreement.
- 30. Unless otherwise stated, any monetary penalties and costs imposed upon Collias are payable immediately upon the effective date of the Settlement Agreement.
- 31. Unless otherwise stated, any suspensions, bars, expulsions, restrictions, or other terms of the Settlement Agreement shall commence on the effective date of the Settlement Agreement.

**AGREED TO** by the Respondent at the City of Vancouver, in the Province of British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
WITNESS

**“JOHN ANASTASIOUS COLLIAS”**  
\_\_\_\_\_  
**JOHN ANASTASIOUS COLLIAS**

**AGREED TO** by Staff in Vancouver, BC., this 28<sup>th</sup> day of May, 2010 .

**“WITNESS SIGNATURE”**  
\_\_\_\_\_  
WITNESS

**“WIETZKE GERBER”**  
\_\_\_\_\_  
**WIETZKE GERBER**  
Enforcement Counsel on behalf of Staff of the  
Investment Industry Regulatory Organization of  
Canada

**ACCEPTED** this 2<sup>nd</sup> day of June, 2010, by the following Hearing Panel:

Per: “John Rogers”  
Panel Chair

Per: “Brian Field”  
Panel Member

Per: “David Pearson”  
Panel Member

**\*\*\* SETTLEMENT AGREEMENT – YOUNG \*\*\***

**I. Introduction**

1. IIROC Enforcement Staff and Karen Marie Young (Young) consent and agree to the settlement of this matter by way of this settlement agreement (the Settlement Agreement).
2. The Enforcement Department of IIROC conducted an investigation (the Investigation) into the conduct of Young.
3. The Investigation was commenced by Enforcement Department Staff prior to May 30, 2008. On June 1, 2008, IIROC consolidated the regulatory and enforcement functions of the IDA and Market Regulation Services Inc. Pursuant to the *Administrative and Regulatory Services Agreement* between IDA and IIROC, effective June 1, 2008, the IDA has retained IIROC to provide services for IDA to carry out its regulatory functions.
4. The Investigation discloses matters for which Young may be disciplined by a hearing panel appointed pursuant to IIROC Transitional Rule No.1, Schedule C.1, Part C (the Hearing Panel).

**II. Joint Settlement Recommendation**

5. Staff and Young jointly recommend that the Hearing Panel accept the Settlement Agreement.

**CONTRAVENTIONS AND TERMS OF SETTLEMENT**

6. Young admits that from February 26, 2007, to August 14, 2007 (the Relevant Period), while employed as a Registered Representative (RR) by Gateway Securities Inc. (Gateway), a Member firm, Young failed to adequately perform her role as a gatekeeper to the capital markets by accepting trading instructions for a client account without exercising the standard of care expected of a registrant to satisfy herself of the legitimacy of the trading activity in circumstances which should have called the trading activity into question, contrary to Dealer Member Rule 29.1
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  - (b) A fine of \$20,000.
8. Young agrees to pay costs to IIROC in the sum of \$5,000.

**III. Statement of Facts**

9. Staff and Young agree, solely for the purposes of this Settlement Agreement, with the facts set out in Section III and acknowledge that the terms of the settlement contained in this Settlement Agreement are based upon those specific facts.

**A. Respondent**

10. Young was employed as an RR by Gateway, an introducing broker and IDA/IIROC Member.
11. Young was employed by Member firms in a registered capacity from November 2000 until May 2008, when she voluntarily resigned.

**B: PARTICULARS OF CONTRAVENTION**

**The Client Account**

12. Young, with another RR, operated an institutional Delivery Against Payment (DAP) account for HBL (HBL Account) from 2003 and in particular, during the Relevant Period. HBL is a subsidiary of a European bank domiciled in Liechtenstein, a banking and tax secrecy jurisdiction. The securities traded

by HBL were settled through Depository Trust Company on a DAP basis and were cleared by HBL's custodian Brown Brothers Harriman. Accordingly, neither Gateway nor its carrying broker ever held or cleared any of the securities that were traded for the HBL Account.

### Rule 29.1

13. Trading in the HBL Account primarily consisted of the sale of securities quoted on the Over-the-Counter Bulletin Board (OTCBB) and Pink Sheets. OTCBB and Pink Sheet issuers are held to far lower or almost non-existent disclosure standards (quality and frequency) compared to issuers listed on a stock exchange such as the Toronto Stock Exchange (TSX) or the New York Stock Exchange (NYSE). Unlike issuers listed on the TSX or NYSE, there are no minimum asset, revenue, or capitalization requirements for companies whose shares are quoted on the OTCBB or Pink Sheets.
14. During the Relevant Period, the HBL account sold approximately USD\$30 million worth of OTCBB and Pink Sheet securities and generated commissions of approximately \$123,554 for Young.
15. HBL maintained accounts with other Vancouver-based securities dealers, some of whom facilitated trades during the Relevant Period in securities similar to and in a similar manner to those traded by Young, but less frequently.
16. The HBL Account began trading at Gateway on February 26, 2007, and continued to trade until August 14, 2007, when Gateway gave a voluntary undertaking to the British Columbia Securities Commission not to execute any further trades for HBL.
17. Trading statistics for HBL Account included:

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<b>Volumes</b>		
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	<u><u>67,104,638</u></u>	
<b>Number of issuers</b>		
CAD	1	1%
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**Table 2: Top 10 Issuers by Value Traded February to August 2007**

Issuer (market)	Symbol	Value (\$)	Inv A/C
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Amish Naturals Inc (OTC)	AMNT	2,103,801	Z7
Biopack Envrl Soln Inc (OTC)	BPEV	1,628,886	Z7
L Intl Computers Inc (Pink)	LITL	989,226	Z9
Fsona Systems Corp (OTC)	FSO	924,808	Z9
TM Media Group Inc (Pink)	TMMG	802,521	Z9
Urex Energy Corp (OTC)	URXE	703,392	Z9
		<u>\$23,758,735</u>	

18. The issuers identified in the tables above each had no history of generating operating revenues and their price and volume charts were consistent with a ‘pump and dump’ scheme or improper market-related activity. Unknown to Young, some of the securities referred to in the tables above were subject to spam e-mail promotional campaigns.
19. The volume and value of shares sold of each issuer during the initial 3-month period that the HBL account was in operation at Gateway, was as follows:

**Table 3: Issuers from Table 2 - Volume and Value Traded February to May 2007**

Issuer	Values of Sales (\$)	Volume of Sales	% of i/o shares
Americas Wind Energy	\$4,185,706	2,531,168	11.2
Upstream Biosciences	2,899,231	2,139,141	4.8
AC Energy	3,022,343	3,067,600	4.1
Pure Biofuels	1,609,170	1,255,789	2.0
Amish Naturals	1,651,580	665,700	1.6

**Table 3: Issuers from Table 2 - Volume and Value Traded February to May 2007**

Biopack Envr1	853,578	829,300	0.5
L Intl Computers	989,226	6,194,400	5.5
Fsona	843,788	1,526,500	4.0
Systems	643,858	303,300	0.6
TM Media			
Urex Energy	602,602	2,076,184	2.5
	<u>\$14,279,034</u>	<u>21,076,982</u>	

20. Young facilitated transactions in the HBL Account without making sufficient inquiries to satisfy herself of the legitimacy of the trading activity in circumstances which should have called the trading activity into question because it had the appearance of being or potentially being improper market-related activity.
21. Notwithstanding Young's failure to meet the standard required of her in her role as a gatekeeper, there were the following mitigating factors:
- (a) Young's failure was not intentional. She had no knowledge of any improper trading scheme or improper market-related trading activity relating to the HBL Account, or in the securities the HBL Account traded, including any spam e-mail promotional campaigns.
  - (b) The trading in the HBL account was reviewed daily by Gateway's Chief Compliance Officer (CCO) who did not raise any question or concerns about it.
  - (c) Young was subject to "close supervision". According to Gateway, Young satisfactorily performed under her close supervision and her monthly close supervision reports were endorsed by the CCO.
  - (d) Young received minimal compliance support or direction at Gateway.**

#### **V. Terms of Settlement**

22. This settlement is agreed upon in accordance with IIROC Dealer Member Rules 20.35 to 20.40, inclusive, and Rule 15 of the Dealer Member Rules of Practice and Procedure.
23. The Settlement Agreement is subject to acceptance by the Hearing Panel.
24. The Settlement Agreement shall become effective and binding upon Young and Staff as of the date of its acceptance by the Hearing Panel.
25. The Settlement Agreement will be presented to the Hearing Panel at a hearing (the Settlement Hearing) for approval. Following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement.
26. If the Hearing Panel accepts the Settlement Agreement, Young waives her right under IIROC rules and any applicable legislation to a disciplinary hearing, review, or appeal.
27. If the Hearing Panel rejects the Settlement Agreement, Staff and Young may enter into another settlement agreement or Staff may proceed to a disciplinary hearing in relation to the matters disclosed in the Investigation.

28. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel.
29. Staff and Young agree that if the Hearing Panel accepts the Settlement Agreement, they, or anyone on their behalf, will not make any public statements inconsistent with the Settlement Agreement.
30. Unless otherwise stated, any monetary penalties and costs imposed upon Young are payable immediately upon the effective date of the Settlement Agreement.
31. Unless otherwise stated, any suspensions, bars, expulsions, restrictions, or other terms of the Settlement Agreement shall commence on the effective date of the Settlement Agreement.

AGREED TO by the Respondent at the City of Vancouver, in the Province of British Columbia, this 24<sup>th</sup> day of May, 2010.

\_\_\_\_\_  
**“KAREN MARIE YOUNG”**

\_\_\_\_\_  
**WITNESS**

\_\_\_\_\_  
**KAREN MARIE YOUNG**

AGREED TO by Staff in Vancouver, BC., this 28<sup>th</sup> day of May, 2010 .

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**“WITNESS SIGNATURE”**

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**“WIETZKE GERBER”**

\_\_\_\_\_  
**WITNESS**

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**WIETZKE GERBER**

Enforcement Counsel on behalf of Staff of the  
Investment Industry Regulatory Organization of  
Canada

ACCEPTED this 2<sup>nd</sup> day of June, 2010, by the following Hearing Panel:

Per: “John Rogers”

Panel Chair

Per: “Brian Field”

Panel Member

Per: “David Pearson”

Panel Member

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