

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF THE UNIVERSAL MARKET INTEGRITY RULES

AND

IN THE MATTER OF SCOTT FRASER HARDING

OFFER OF SETTLEMENT

A. 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 Scott Fraser Harding (Harding).
2. The Investigation was commenced by the Investigations and Enforcement Department Staff of Market Regulation Services Inc. (RS) prior to May 30, 2008. On June 1, 2008, IIROC consolidated the regulatory and enforcement functions of the Investment Dealers Association of Canada and Market Regulation Services Inc. Pursuant to the *Administrative and Regulatory Services Agreement* between RS and IIROC, effective June 1, 2008, RS has retained IIROC to provide services for RS to carry out its regulatory functions.
3. The Investigation has disclosed matters for which IIROC seeks certain sanctions against Harding pursuant to Rule 10.5 of the Universal Market Integrity Rules (UMIR).
4. If this Offer of Settlement is accepted by Harding, the resulting settlement agreement (the Settlement Agreement), which has been negotiated in accordance with Part 3 of UMIR

Policy 10.8, is conditional upon the approval by a hearing panel appointed pursuant to IIROC Transitional Rule No.1, Schedule C.1 (the Hearing Panel).

5. Harding 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.
6. Harding consents to be subject to the jurisdiction of IIROC and its relevant disciplinary process and rules in relation to this matter.
7. Staff and Harding jointly recommend that the Hearing Panel accept this Settlement Agreement.

B. AGREEMENT AS TO REQUIREMENTS CONTRAVENED

8. Harding agrees that between December 13, 2006, and January 24, 2007, he failed in his role as a gatekeeper when he entered orders and executed trades on behalf of a client for Evergreen Gaming Corporation (TNA), a listed company on the TSX Venture Exchange, that he ought to have known could reasonably be expected to create an artificial price for the security contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2 (e), for which he is liable under UMIR 10.4(1).

C. ADMITTED FACTS

9. Staff and Harding 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.

D. DISPOSITION

10. For the contraventions in paragraph 8 above, Staff and Harding have agreed upon disposition as follows:
 - (i) a fine of \$ 40,000.00 payable by Harding to IIROC;

(ii) costs of \$10,000.00 payable by Harding to IIROC.

11. If this Settlement Agreement is accepted by a Hearing Panel, Harding agrees to pay the amounts referred to in paragraph 10 within 30 days of such acceptance.

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

12. Harding shall have until the close of business on Wednesday April 28, 2010 to accept the Offer of Settlement and serve an executed copy thereof on Staff.

13. This Settlement Agreement shall be presented to a Hearing Panel at a public 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. Harding acknowledges that IIROC shall notify the public and media of the Approval Hearing in such manner and by such media as IIROC sees fit.

14. Pursuant to Part 3.4 of UMIR Policy 10.8, the Hearing Panel may accept or reject this Settlement Agreement.

15. 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 Harding and IIROC will publish a summary of the Requirements contravened, the facts, and the disposition agreed upon in the Settlement Agreement.

16. 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.

17. Harding 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 and may, without limiting the generality of the foregoing, suspend Harding's access to

marketplaces regulated by IIROC until IIROC determines that Harding is in full compliance with all terms of the Settlement Agreement.

18. Harding 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, British Columbia on the _____ day of April, 2010.

Witness Signature

SCOTT FRASER HARDING

Name of Witness

Address of Witness

DATED at Vancouver, British Columbia on the _____ day of April, 2010.

Per: _____

WARREN FUNT
Vice President, Western Canada
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
Suite 2800 – Royal Centre
1055 West Georgia Street
Vancouver, B.C. V6E 3R5

This foregoing Settlement Agreement is hereby approved this _____ day of _____, 2010,
by the following hearing panel constituted to review the terms thereof:

Per: _____
Panel Chair

Per: _____
Panel Member

Per: _____
Panel Member

APPENDIX A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

ON BEHALF OF

MARKET REGULATION SERVICES INC.

IN THE MATTER OF:

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

AND

THE UNIVERSAL MARKET INTEGRITY RULES

AND

FRANCESCO MAURO

AND

SCOTT FRASER HARDING

STATEMENT OF ALLEGATIONS

I. REQUIREMENTS CONTRAVENED

1. Scott Fraser Harding (Harding) agrees to the following contravention:

Between December 14, 2006, and January 24, 2007 (Relevant Period), while a Registered Representative (RR) at CIBC World Markets Inc. (CIBC), Harding failed in his role as a gatekeeper when he entered orders and executed trades on behalf of a client for Evergreen Gaming Corporation (TNA), a listed company on the TSX Venture Exchange (TSXV), that he ought to have known could reasonably be expected to create an artificial price for the security contrary to UMIR 2.2(2)(b) and UMIR Policy 2.2 (e), for which he is liable under UMIR 10.4(1).

2. Francesco Mauro (Mauro) agrees to the following contravention:

During the Relevant Period, Mauro, while an RR, Branch Manager, and Officer at CIBC, did not meet the standard required of him in his role as a supervisor by failing to fully and properly supervise Harding, as necessary, to ensure that he complied with UMIR and its Policies, contrary to UMIR 7.1 (4) and Policy 7.1.

3. The text of the relevant Requirements is set out in Schedule A to the Notice of Hearing.

II. RELEVANT FACTS AND CONCLUSIONS

OVERVIEW

4. During the course of a non-brokered private placement by TNA, Harding entered orders and executed trades for the shares of TNA on behalf of Client B. Client B was the wife of the CEO of TNA (Client A).
5. Client B stated an intention to increase her position in free-trading TNA shares, instead of acquiring shares available in a private placement that were subject to a four-month hold period.
6. The orders were entered when the shares of TNA declined below the unit price of the private placement.
7. Certain of the trades were entered late and resulted in a high close at or near the unit price of the private placement.

BACKGROUND

8. CIBC is registered as an investment dealer, is a Participating Organization of the Toronto Stock Exchange (the TSX), is a Member of the TSXV, and therefore, a Participant under UMIR.
9. During the Relevant Period, CIBC employed Mauro as an RR (Retail), Branch Manager, and Officer (Trading Securities) at its West Vancouver Branch. Mauro has been an RR since 1985.
10. During the Relevant Period, CIBC employed Harding as an RR (Retail) at its West Vancouver Branch. Harding worked as an associate investment advisor with Mauro and entered most orders for Mauro's clients. All trades for Mauro's clients were entered using the same Commission Code, CAG. All trades entered with the CAG Commission Code, including the trading by Client B, were reviewed by Business Risk Sales Supervision

(BRSS), a division of CIBC Compliance responsible for the supervision of producing Branch Managers.

TNA PRIVATE PLACEMENT

11. TNA is a British Columbia incorporated issuer trading on the TSXV.
12. On November 6, 2006, TNA announced the acquisition of two casinos in Washington State through WGI. WGI purchased 100% of the assets of the two casinos for \$7.534 million (US).
13. On November 6, 2006, TNA also announced a non-brokered private placement of up to 9,500,000 units at \$1.00 per unit to finance the acquisition of the two casinos (the Private Placement).
14. CIBC completed due diligence on TNA's reverse takeover of WGI.
15. Each unit in the Private Placement consisted of one common share and half a share purchase warrant. One whole warrant entitled the holder to purchase one additional common share of TNA for two years, at a price of \$1.45 per share in the first year and at a price of \$1.75 per share in the second year.

CLIENT B'S STRATEGY

16. In or about November 2006, Client B communicated that it was her intention to increase her already significant position in TNA in her RRSP account. Mauro questioned both Client A and Client B about her intentions, and Mauro suggested that she should instead buy the shares through the Private Placement. Client B stated that her intention was to acquire free-trading shares, given that the shares in the Private Placement were subject to a four-month hold period.
17. Mauro took into account that he had known Client A (the CEO of TNA) for about 24 or 25 years, and he had known Client B (the CEO's wife) for approximately 15 years. During this time, Mauro served as an investment advisor to Client A and Client B, including their involvement in both Great Canadian Gaming and Creation Casinos, prior to Evergreen Gaming. Those experiences included raising funds and participating in private placements as insiders of the companies involved. At no time in those prior related experiences did Client A or Client B conduct themselves in a manner that gave rise to any cause for concern. Client A and Client B also had no regulatory history.
18. Mauro recognized that Client B had prior experience in very similar circumstances, having previously owned both free-trading shares and shares acquired in a private placement that were subject to a hold period in other issuers. It was Mauro's understanding based on this experience that Client B believed there was a benefit to owning free trading shares should there be an advantage in being able to sell during the hold-period.

19. Harding had known client A and Client B since he commenced work with Mauro about 10 years earlier. Harding did not have a separate conversation with Client B about her strategy, but this was explained to him by Mauro.
20. Every order entered on behalf of Client B was unsolicited and was called in directly to Harding, who handles most of the trades for Mauro's clients. In this regard, Mauro handled most of the portfolio work and any clients that traded on their own would typically call Harding directly.
21. The information Client B requested was the depth of bid/ask and trading volume. No advice or recommendations were sought from or given by Mauro or Harding.
22. During the relevant period, 184,600 TNA shares traded at \$1.00. Client B was the purchaser of 66,800 (36%) of those shares.
23. All trades executed on behalf of Client B were purchases, and she never sold any of her TNA shares from November 1, 2006, to January 24, 2007.

CLIENT B's ACCUMULATION OF SHARES

24. Between November 1 and December 13, 2006, the shares of TNA did not trade below \$1.00. During this period, Harding entered 17 buy orders in Client B's account, of which 16 were passive. None of the passive orders traded at the posted offer price at the time of entry.
25. Between December 13, 2006, to January 24, 2007, TNA trading ranged in price from a low of \$0.91 per share to \$1.05 per share. Client B was only a buyer and acquired shares at prices ranging from \$0.92 to \$1.03. In total, she purchased 187,100 shares, at an average cost of \$0.97.
26. Until December 21, 2006, all trades for Client B were marked insider. CIBC Compliance advised Mauro and Harding that it did not consider Client B an insider and that her trades should not be marked as such. Despite being challenged, CIBC Compliance maintained this position and Mauro and Harding adopted a more conservative approach and sent updated NCAF's to Clients A and B to confirm Client B's status as an insider.

PRICE RESTORATION TRADES ENTERED BY HARDING

27. The share price of TNA fell below \$1.00 on December 14, 2006.
28. Between December 15, 2006, and January 24, 2007, the shares of TNA traded below \$1.00 on 20 trading days.
29. During the Relevant Period, Harding entered 46 buy orders in Client B's account, of which 24 were active orders that traded at or above the posted offer price upon entry.

30. Of the 30 trades by Client B at or above \$1.00 (she only once bought from an offer to sell shares at \$1.03) 23 trades were bought from an existing offer to sell at \$1.00.
31. Schedule B identifies 14 buy orders entered by Harding for Client B during the Relevant Period that restored the share price of TNA to close at or near \$1.00 after a price decline (the Price Restoration Trades).
32. The Price Restoration Trades were all active trades entered when the price of the previous trades were below \$1.00. The Price Restoration Trades were also characterized by the following:
 - (a) 13 established the closing price of TNA shares, of which 12 established the closing price at \$1.00, the same price as the unit price in the Private Placement
 - (b) 14 were entered in the last hour of trading;
 - (c) 6 with a limit price of \$1.00, traded entirely at the posted offer price of \$1.00;
 - (d) 7 with a limit price of \$1.00, traded entirely at successive prices up to \$1.00.

HARDING'S CONDUCT

33. Harding ought to have been aware of the impact of the Price Restoration Trades. His order entry practice at CIBC included reviewing market details, such as the bid/offer, volume of shares traded, market depth, and the potential impact of executing a trade. Harding also failed to notice that Client B's trading pattern changed from a passive to a mostly active pattern.
34. A prudent RR who was aware of the timing and circumstances of trades like these by Client B ought to have had a sound foundation of information on which to conclude that the last trades were not intended to establish an artificial closing price, or ought to have made diligent inquiries to support such a conclusion before accepting the client's instructions.
35. Had Harding exercised the care, diligence, and skill that a reasonably prudent RR would exercise in comparable circumstances, he ought to have recognized that the Price Restoration Trades could reasonably be expected to create an artificial sale price for the shares of TNA.
36. Notwithstanding Harding's failure to meet the standard required of him in his role as a gatekeeper, there were the following mitigating factors:
 - (a) Harding's failure was not intentional.
 - (b) Harding had a long term relationship with Client B. His comfort level with Client B resulted in him failing to notice the impact of the Price Restoration Orders. In

this regard, Harding assumed that certain of Client B's trades were late in the day for reasons such as commission thresholds and the Client's irregular schedule.

- (c) Harding was aware of how closely Compliance worked on the approval of the Private Placement. Accordingly, Harding believed that Compliance would have alerted him to any potential issues with respect to the trading in TNA.
- (d) Harding's trading in thinly traded issuers represents a small portion of his overall trading activity.
- (e) During the relevant period Harding's infant child was critically ill, resulting in increased stress and fatigue.
- (f) Harding co-operated fully in the review of the trading both before leaving CIBC and subsequently with the Market Regulator.
- (g) Harding has no prior disciplinary history.

SUPERVISION BY MAURO

- 37. Mauro did not receive specific orders from Client B, nor did he enter any of the relevant trades, but he had a duty to supervise Harding's execution of trades.
- 38. In conducting his reviews, primarily using the daily commission runs, Mauro did not see the timing of trades nor did his reviews raise concerns that resulted in obtaining further information to review timing of trade-entry.
- 39. While his computer terminal permitted him to review up-to-the-minute trading in his branch, including trade times, Mauro did not actively monitor this. Mauro spent most of his time conferring with clients on financial planning/wealth management and the related work of individual security selection, portfolio work, modeling, and retirement planning.

MAURO'S CONDUCT

- 40. Mauro failed to exercise the care, diligence, and skill that a reasonably prudent Branch Manager would exercise in comparable circumstances. He ought to have recognized that the trading by Client B during the Private Placement required more detailed supervision than the procedures adopted by CIBC with respect to timing of trade-entry and high closes.
- 41. Notwithstanding Mauro's failure to meet the standard required of him in his role as a supervisor, the seriousness of his breach is mitigated by the factors set out at paragraph 36 above for Harding as well as the following:
 - (a) The review of Client B's trading activity on daily commission reports did not reveal that they were done late in the trading day and improved the closing price.

(b) The CIBC policies and procedures in place at the time did not require enhanced trade supervision or surveillance when a private placement was being facilitated through CIBC.

(c) Mauro has no prior disciplinary history.

DATED at Vancouver, this 26th day of April, 2010.

INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA
1055 West Georgia St., Ste. 2800
Vancouver, BC V6E 3R5

SCHEDULE "B"

Buy Orders - December 2006:

	Date (dd/mm/yy)	Price of Prev. Trade (Tick)	Order Entry / Fill Time	Order Details (Qty @ Price)	Price(s) of Trades (Tick)	Sets Closing Price? (Yes/No)
1.	12/14/06	0.95 (-)	15:32:55	6,000 @ \$1.00	5,200 @ \$1.00 (+0.05)	Yes
2.	12/22/06	0.93 (-)	15:57:26	5,000 @ \$1.00	5,000 @ \$1.00 (+0.07)	Yes
3.	12/28/06	0.92 (-)	15:22:32	2,000 @ \$1.00	1,500 @ \$1.00 (+0.08)	Yes

Buy Orders - January 2007:

	Date (dd/mm/yy)	Price of Prev. Trade (Tick)	Order Entry / Fill Time	Order Details (Qty @ Price)	Price(s) of Trades (Tick)	Sets Closing Price? (Yes/No)
4.	01/02/07	0.95 (-)	15:49:52	2,000 @ \$1.00	2,000 @ \$1.00 (+.05)	Yes
5.	01/03/07	0.92 (-)	15:55:50	6,000 @ \$1.00	5,000 @ \$0.99 (+.07) 1,000 @ \$1.00 (+.01)	Yes
6.	01/04/07	0.94 (0-)	15:47:47	4,000 @ \$1.00	3,000 @ \$0.99 (+.05) 1,000 @ \$1.00 (+.01)	Yes
7.	01/08/07	0.92 (-)	15:18:49	8,000 @ \$1.00	1,500 @ \$0.98 (+.06) 5,000 @ \$0.99 (+.01) 1,500 @ \$1.00 (+.01)	Yes
8.	01/09/07	0.92 (-)	15:04:59	8,000 @ \$1.00	2,500 @ \$0.98 (+.06) 5,000 @ \$0.99 (+.01) 500 @ \$1.00 (+.01)	Yes
9.	01/10/07	0.92 (0-)	15:17:08	12,800 @ \$1.00	2,500 @ \$0.98 (+.06) 2,500 @ \$0.99 (+.01) 7,000 @ \$0.99 (0+) 800 @ \$1.00 (+.01)	Yes
10.	01/11/07	0.92 (-)	15:53:15	11,000 @ \$1.00	5,000 @ \$0.98 (+.06) 5,000 @ \$0.99 (+.01) 1,000 @ \$1.00 (+.01)	Yes
11.	01/17/07	0.96 (0-)	15:57:27	2,000 @ \$1.03	2,000 @ \$1.03 (+.07)	Yes
12.	01/19/07	0.99 (+)	15:54:18	6,000 @ \$1.00	5,000 @ \$0.99 (0+) 1,000 @ \$1.00 (+.01)	No
13.	01/23/07	0.95 (+)	15:58:28	6,000 @ \$0.99	5,000 @ \$0.95 (0+) 1,000 @ \$0.99 (+.04)	Yes
14.	01/24/07	0.93 (0-)	15:57:50	9,500 @ \$0.99	2,500 @ \$0.93 (0-) 500 @ \$0.97 (+.04) 6,000 @ \$0.98 (+.01) 500 @ \$0.99 (+.01)	Yes