DECISION OF A PANEL APPOINTED PURSUANT TO *THE FINANCIAL AND CONSUMER AFFAIRS AUTHORITY OF SASKATCHEWAN ACT*, SS 2012, C F-13.5 (the "***FCAA Act***")

In the Matter of

The Securities Act, 1988*, SS 1988-89, c S-42.2** (the "Securities Act***")

and

In the Matter of

RON OCHITWA (the "**Respondent**")

APPROVAL OF SETTLEMENT AGREEMENT

Hearing on:	April 14, 2025
Before:	Norman Halldorson, Panel Chairperson Linda Zarzeczny, K.C., Panel Member Peter Carton, Panel Member (collectively, the "**Panel**")
Appearances:	Darcy Dumont and Sonne Udemgba on behalf of the Financial and Consumer Affairs Authority of Saskatchewan (the "**FCAA**") Securities Division ("**Counsel for the FCAA**") Parker Neil on behalf of the Respondent ("**Counsel for the Respondent**")
Date of Decision:	April 24, 2025

I. DECISION

1. The Panel grants the Joint Application and approves the Settlement Agreement submitted by the parties.

II. OVERVIEW

2. Between August 2019 and June 2023, the Respondent solicited for investors in two companies and received commission from the companies for referring new investors. In total, six investors provided money to the Respondent to invest on their behalf. Despite at least some investors subsequently attempting to withdraw their investments, none of the investors have received any repayment of the funds provided to the Respondent.

3. On August 29, 2024, the Securities Division of the FCAA alleged that the Respondent, among other things,

a) acted as a dealer and adviser in Saskatchewan while he was not registered as a dealer or adviser or a representative of a registered dealer or adviser;

b) traded in a security without filing a preliminary prospectus or prospectus;

c) failed to perform a suitability determination of investors; and

d) failed to file a report claiming an exemption from the suitability determination requirements.

4. On April 11, 2025, the Executive Director of the Securities Division of the FCAA and the Respondent agreed to settle the matter without a hearing. In summary, the parties agreed to the following terms:

a) the Executive Director will seek an order that the Respondent be banned from participating in capital and derivatives markets for seven years, except for the purposes of trading securities or derivatives on his own account;

b) the Executive Director will not seek an order that the Respondent pay an administrative penalty or costs of the proceeding; and

c) the Respondent will refund all monies received from investors that were to be invested on their behalf.

5. As required under the *Securities Act* and *Saskatchewan Policy Statement 12-602 Procedure on Hearings and Reviews* ("***Policy Statement 12-602***"), the parties jointly applied to the Panel for an order approving the Settlement Agreement by filing the following documents with the Panel:

a) Notice of Application dated April 11, 2025;

b) Settlement Agreement dated April 11, 2025;

c) Draft Order Approving Settlement;

d) Memorandum of Argument dated April 11, 2025; and

e) Book of Authorities;

(collectively, the "**Joint Application**").

6. This decision provides the Panel's reasons for granting the Joint Application and approving the Settlement Agreement.

III. ISSUES

7. The Joint Application raises the following issues for the Panel:

a) Should the Panel abridge the time period before the merits hearing before which the Joint Application must be filed?

b) Should the Panel approve the Settlement Agreement in the Joint Application?

IV. ANALYSIS

a) Issue 1: Should the Panel abridge the time period before the merits hearing before which the Joint Application must be filed?

i) Context

8. *Policy Statement 12-602* states that an application for approval of a settlement agreement will be filed no later than two days before a hearing (subsection 14.1(2)).

9. The Joint Application was sent to the Registrar after 4:30 pm on Friday, April 11, 2025. Accordingly, the Joint Application was deemed to be filed on the next business day, being Monday, April 14, 2025 (see clause 1.4.3(1)(a) of *Policy Statement 12-602*). Given that the merits hearing in this matter was scheduled to begin on April 14, 2025, the Joint Application was not filed before the appropriate deadline.

10. Nonetheless, *Policy Statement 12-602* states that a Panel may extend or abridge any time period prescribed under the policy (subsection 1.5(2)).

ii) Conclusion on Issue 1

11. For the reasons provided below, we agreed at the hearing to abridge the time period before the merits hearing, before which the Joint Application must be filed, such that the Joint Application is deemed to have met the filing requirements under *Policy Statement 12-602*.

iii) Evidence and Submissions

12. The parties explained in the Joint Application and during their oral submissions at the hearing on April 14, 2025 that they began discussing settlement on Wednesday, April 9, 2025. From that point on, they advised that they worked expeditiously to execute the Settlement Agreement and prepare the remaining documents for the Joint Application so that it could be submitted on Friday, April 11, 2025.

iv) Application of Law to the Facts

13. Despite the short timeline, the Joint Application contains all the necessary documents required to allow the Panel to make an informed decision. Further, the Panel acknowledges that it is common for settlement to occur in close proximity to a hearing.

14. In conclusion, we agree it is appropriate to accept the Joint Application as properly filed because considering this completed application—rather than proceeding with a merits hearing—is in the public interest.

b) Issue 2: Should the Panel approve the Settlement Agreement in the Joint Application?

i) Context

15. The Panel may approve a settlement agreement that imposes sanctions on a party if the Panel believes imposing those sanctions is in the public interest (subsection 134(1) of the *Securities Act*). The parties submit that approving the Settlement Agreement is in the public interest taking into consideration the allegations, the Respondent's admissions, and the aggravating and mitigating factors in this matter.

16. In summary, the Joint Application requests an order that

a) the Settlement Agreement be approved;

b) all exemptions in Saskatchewan securities laws do not apply to the Respondent for a period of seven years;

c) the Respondent shall cease trading in, acquiring, or giving advice respecting securities, derivatives, or trades for a period of seven years, except for the purposes of trading or acquiring securities or derivatives on his own account;

d) the Respondent shall not be employed by, act as a director or officer of, become, or act as an issuer, registrant, or investment fund manager for a period of 7 years; and

e) the Respondent shall refund all monies he received from investors that were to be invested on their behalf.

ii) Conclusion on Issue 2

17. For the reasons provided below, we find that approving the Settlement Agreement in the Joint Application is in the public interest.

iii) Legal Framework

18. The *Securities Act* states that a proceeding may be disposed of by an agreement approved by the Commission (clause 135.3(1)(a)). A decision or action of this Panel is a decision of the Commission (see subsection 17(7) and clause 2(a) of the *FCAA Act* and clauses 2(1)(b.2) and (e) of the *Securities Act*).

19. As noted above, the Joint Application seeks an order imposing certain sanctions on the Respondent. In the Memorandum of Argument, Counsel for the FCAA rely on *Re Gaetan Blouin*, 2021 CanLII 142784 (SK FCAA) [***Blouin***] as authority on the principles to be considered in a sanctions hearing. Specifically, the following factors should be weighed (*Blouin* at para 21):

a) the seriousness of the allegations;

b) the respondent's experience in the marketplace;

c) the level of a respondent's activity in the marketplace;

d) whether or not there has been recognition of the seriousness of the improprieties;

e) whether or not the sanctions imposed may serve to deter not only those involved in the case being considered, but any like-minded people from engaging in similar abuses of the capital markets;

f) any mitigating factors;

g) the size of any profit made, or loss avoided from the illegal conduct;

h) the size of any financial sanctions or voluntary payment when considering other factors;

i) the effect any sanctions might have on the livelihood of a respondent;

j) the restraint any sanctions may have on the ability of a respondent to participate without check in the capital markets;

k) the reputation and prestige of the respondent;

l) the shame or financial pain that any sanction would reasonably cause to the respondent; and

m) the remorse of the respondent.

20. Counsel for the FCAA also cite *Blouin* as relevant jurisprudence on the public interest when considering proposed sanctions. Specifically, they note that sanctions, which are regulatory in nature, must be aimed at preventing future harm rather than punishing prior conduct (*Blouin* at para 38).

iv) Evidence and Submissions

21. In summary, the parties agreed to the following facts in the Settlement Agreement:

a) Between August 2019 and June 2023, the Respondent solicited for investors in two companies, known as CashFX and Paraiba, and received commission from the companies for referring new investors.

b) In all, six investors provided money to the Respondent to invest on their behalf for a collective total of $9,048.

c) Despite at least some investors subsequently attempting to withdraw their investments, none of the investors have received any repayment of the funds provided to the Respondent.

d) During the material time, the Respondent

i) was not registered in Saskatchewan as a dealer or adviser, and therefore, contravened the dealer and adviser registration requirements in clauses 27(2)(a) and (b) of the *Securities Act*;

ii) did not file a preliminary prospectus or prospectus, and therefore, contravened the prospectus filing requirements in subsection 58(1) of the *Securities Act*;

iii) did not conduct a suitability determination of investors, and therefore, contravened the suitability determination requirements in section 13.3 of National Instrument 31-103; and

iv) did not file a report claiming an exemption from the suitability determination requirements, and therefore, contravened the filing requirements in section 6.1 of National Instrument 45-106.

e) The Respondent is an elderly individual of limited means who is retired from employment and relies on his pension and old age security payments for sustenance.

22. In the Memorandum of Argument, Counsel for the FCAA listed several aggravating factors:

a) the Respondent contravened Saskatchewan securities laws;

b) dealing and advising in securities while not registered to do so and failing to issue or file a prospectus are inherently serious contraventions of securities laws because such requirements are essential to ensuring the protection of the investing public; and

c) given that the Respondent solicited and received funds to invest from multiple investors, the Respondent's conduct did not involve an isolated incident nor a brief lapse of judgment.

23. Additionally, Counsel for the FCAA noted several mitigating factors:

a) the Respondent cooperated in settlement negotiations, made admissions in the Settlement Agreement, and agreed to reach a settlement prior to the merits hearing;

b) the Respondent ceased engaging in activity that contravenes securities laws;

c) the Respondent does not have any prior experience in the capital markets;

d) the Respondent does not have any prior disciplinary record with any securities regulatory authority;

e) the Securities Division has not made any allegation of fraud against the Respondent; and

f) the Respondent has agreed to return the funds he received from investors, has deposited the funds in his legal counsel's trust account, and has signed an irrevocable direction regarding payment of the funds to the investors.

24. Counsel for the FCAA submit that the sanctions agreed to in the Settlement Agreement are appropriate. While it is not common for Counsel for the FCAA to recommend approving a settlement agreement that does not impose an administrative penalty on the Respondent, counsel argues that this matter is sufficiently distinguishable from previous matters because of the mitigating circumstances present in this case. Further, the proposed seven-year market ban is reflective of the severity of the matter at hand, denounces the Respondent's conduct, and sends a clear message to the public that similar conduct will not be tolerated.

v) Application of Law to the Facts

25. The task before the Panel is to decide whether to approve or reject the Settlement Agreement. Any decision of the Panel must be made in a manner consistent with the purposes of the *Securities Act*, being

a) providing protection to investors; and

b) fostering fairness, efficiency, and confidence in capital and derivatives markets;

(subsection 3.1(1) of the *Securities Act*).

26. The Panel agrees that *Blouin* reiterates several helpful factors to consider when imposing sanctions. The factors listed below are relevant to assist the Panel in this matter based on the facts set out in the Settlement Agreement:

a) *The seriousness of the allegations* – While there are no allegations of fraud in this matter, there are several aggravating factors. Specifically, the Respondent has contravened securities laws that are essential to ensuring the protection of the investing public and his conduct did not involve an isolated incident nor a brief lapse of judgment.

b) *The Respondent's experience in the marketplace* – The Respondent does not have any prior experience in the capital markets.

c) *The level of the Respondent's activity in the marketplace* – The Respondent's activity was limited to soliciting funds from six investors, all of whom were family and friends of the Respondent.

d) *Whether the sanctions imposed may serve to deter the Respondent and others from engaging in similar abuses of the capital markets* – The proposed sanctions include a ban on participating in capital and derivatives markets for seven years. While this is not the longest ban imposed in previous cases, it is nevertheless substantial, particularly when considering the Respondent's age.

e) *Any mitigating factors* – The Respondent cooperated in settlement negotiations, made admissions in the Settlement Agreement, and agreed to reach a settlement prior to the merits hearing. By doing so, he saved the parties the time and expense of proceeding with a merits hearing.

f) *The size of any financial sanctions or voluntary payment* – While the Settlement Agreement does not seek an order for an administrative penalty, the Respondent has agreed to repay all the money he received from all investors he solicited money from (not just the investors listed in the Statement of Allegations filed in this matter). Further, the Respondent has deposited the funds in his legal counsel's trust account and signed an irrevocable direction regarding payment of the funds to the investors. These actions have been taken even though the Respondent is an individual of limited means who is retired from employment and relies on his pension and old age security payments for sustenance.

g) *Whether the Respondent has recognized the seriousness of his improprieties and shown remorse* – By cooperating with the Securities Division and taking the above steps to repay all the money given to the Respondent to be invested, the Respondent has shown he recognizes the seriousness of the situation and has shown remorse for his actions.

27. In weighing these factors, the Panel is also alive to the fact that any sanctions imposed must be proportionate given the circumstances of the matter (*Blouin* at para 20).

28. The Panel is of the view that the proposed sanctions in the Settlement Agreement account for the protection of investors. First, the investors that provided money to the Respondent to invest

will be made as close to whole as possible because the Respondent has agreed to pay them back. Second, the Respondent will be banned from participating in capital and derivatives markets for seven years. Accordingly, provided that the Respondent abides by the market ban, he will be unable to cause similar harm to other investors over a significant period.

29. The Panel also finds that the proposed sanction in the Settlement Agreement aligns with fostering confidence in the markets. Preventing future harm to the markets is instrumental in establishing confidence in the markets (*Blouin* at para 19). The seven-year market ban, coupled with the requirement to pay back the investors' money, are strong deterrents of similar conduct because they signal to the public that improper conduct may result in both bans and orders to pay money out of a respondent's own pocket.

30. While it is uncommon to refrain from ordering an administrative penalty against a respondent who has admitted to contravening securities laws, the Panel recognizes that the Respondent in this matter has shown significant remorse by offering to pay back the investors he wronged. Further, the Panel finds it especially compelling that the Respondent

a) intends to pay back all investors he wronged even though he is of limited means; and

b) has taken active steps to remedy his wrongdoings by already depositing the money into his lawyer's trust account and making the funds subject to an irrevocable direction to pay.

31. These are unique circumstances that, coupled with the fact that the Respondent has taken significant steps to show that he will pay back the investors, justify refraining from also imposing an administrative penalty in this matter. Put another way, given that the proposed market ban and order to repay investors protects current and future investors in the unique circumstances of this matter, the Panel finds that the proposed sanctions in the Settlement Agreement are proportionate in the circumstances of this case.

V. CONCLUSION

32. For the reasons provided above, the Panel grants the Joint Application and approves the Settlement Agreement. An Order confirming this decision will be issued in due course.

33. This is a unanimous decision of the Panel.

Dated at Regina, Saskatchewan on April 24, 2025.

"Norman Halldorson

Norman Halldorson, Panel Chairperson

"Linda Zarzeczny, K.C."

Linda Zarzeczny, K.C, Panel Member

"Peter Carton"

Peter Carton, Panel Member