

# **INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA**

**IN THE MATTER OF:**

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY  
ORGANIZATION OF CANADA (IIROC)**

**AND**

**THE BY-LAWS OF THE  
INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)**

**AND**

**SCOTT BATEMAN**

## **SETTLEMENT AGREEMENT**

### **I. INTRODUCTION**

1. IIROC Enforcement Staff and the Respondent, Scott Bateman (the “Respondent”), consent and agree to the settlement of this matter by way of this settlement agreement (“the Settlement Agreement”).
2. The Enforcement Department of IIROC has conducted an investigation (“the Investigation”) into the conduct of the Respondent.
3. 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 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 Respondent consents to be subject to the jurisdiction of IIROC.
5. The Investigation discloses matters for which the Respondent 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**

6. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.
7. The Respondent admits to the following contravention of IIROC Dealer Member Rules, Guidelines, IDA By-Laws, Regulations or Policies:

Between approximately March 2008 and June 2009, the Respondent acted contrary to IIROC Dealer Member Rule 1300.1(q) (before June 2008 – IDA Regulation 1300.1(q)) by failing to use due diligence to ensure that the recommendations made in relation to the account of client RF were suitable.

8. Staff and the Respondent agrees to the following terms of settlement:
  - a) The Respondent must pay a fine in the amount of \$20,000; and
  - b) The Respondent must re-write the Conduct and Practices Handbook course prior to any registration by IIROC.
9. The Respondent agrees to pay costs to IIROC in the sum of \$2,000.

## **III. STATEMENT OF FACTS**

### **(i) Acknowledgment**

10. Staff and the Respondent agree with the facts set out in this Section III and acknowledge that the terms of the settlement contained in this Settlement Agreement are based upon those specific facts.

### **(ii) Factual Background**

#### **Overview**

11. These facts relate to the period of time between March 17, 2008 and June 15, 2009 (the “Relevant Time Period”) while the Respondent, Scott Bateman, was an Registered Representative with the Kamloops office of Raymond James Ltd. (“Raymond James”).
12. The Respondent made recommendations for purchases in his client RF’s account that were unsuitable given RF’s investment objectives, risk tolerance, investment knowledge, financial circumstances and the account’s initial investment portfolio composition and risk level. These unsuitable recommendations resulted in significant losses in RF’s account during the Relevant Time Period.

## **Registration History**

13. The Respondent was first registered in the securities industry with the Mutual Fund Dealers Association in 2002 while working with Sun Life Financial Investment Services (Canada) Inc. (“Sun Life”). In April 2007, the Respondent moved from Sun Life to Raymond James Ltd. where he was employed as a Registered Representative until March 2012.
14. The Respondent became registered with IIROC in April 2007. The Respondent is not currently registered in any capacity with IIROC and has not been registered since March 21, 2012.

## **Client RF**

15. RF first became a client of the Respondent’s when the Respondent was employed at Sun Life. RF transferred his accounts to Raymond James in May 2007 after the Respondent joined Raymond James.
16. In April 2007 RF opened an RRSP account at Raymond James. In May 2007, RF transferred approximately \$84,000 in cash to his RRSP account at Raymond James.
17. The New Client Application Form (“NCAF”) for RF’s RRSP account at Raymond James was signed by RF in April 2007 and recorded the following information:
  - a) he was born in 1958;
  - b) he was married and his spouse was not employed;
  - c) his investment objectives were 100% growth;
  - d) his risk tolerance was 50% medium and 50% high;
  - e) he had an annual income of approximately \$100,000;
  - f) he had estimated net liquid assets of \$530,000;
  - g) he had estimated net fixed assets of \$50,000;
  - h) he had limited investment knowledge and had only previous investment experience with T-Bills/GICs and Mutual Funds; and
  - i) he did not have any other brokerage accounts with any other firms.
18. The NCAF for RF’s account was updated in April 2009 and included the following updates:
  - a) his employer had changed and his annual income was approximately \$115,000;
  - b) he had estimated net fixed assets of \$400,000; and
  - c) he had estimated net liquid assets of \$100,000.
19. The update to the NCAF in April 2009 did not change RF’s investment objectives or risk tolerance.

20. The NCAF for RF's account was further updated in July 2011 to change the risk tolerance to 100% high risk. The investment objective of 100% growth did not change in the update.

### **Suitability for RF's Account**

21. RF trusted the Respondent and relied on his knowledge and expertise to manage his RRSP account.
22. The Respondent made almost all, if not all, of the recommendations for the purchase and sale of securities in RF's account.
23. Starting in March 2008, the Respondent recommended the purchase of securities in RF's RRSP account which increased the risk profile of the account beyond the risk tolerance recorded in the NCAF. The details of these purchases are detailed in the table below:

Trade Date	Security	Qty	Share Price	Total (Including Commission and ticket charges)	Commission	% in High Risk at Month End
Mar-17-2008	Horizons Beta S&P Gld Bull	1,000	\$35.64	\$35,722.50	\$75	98%
Mar-19-2008	Horizons Beta S&P Gld Bull	500	\$28.55	\$14,357.50	\$75	98%
Sep- 9-2008	Horizons Beta S&P Gld Bull	400	\$10.88	\$4,484.50	\$125	98%
Apr-23-2009	Active Control Tech. Inc.	15,000	\$0.32	\$4,932.50	\$125	91%
May-21-2009	Appleton Exploration Inc.	15,000	\$0.20	\$3,132.50	\$125	100%
Jun-15-2009	Active Control Tech Inc.	20,000	\$0.20	\$4,132.50	\$125	38%
Total					\$650	

24. As of March 31, 2008, RF's account contained securities that were 98% high risk.

### **Horizons BetaPro S&P/TSX Global Gold Bull Plus ETF**

25. Horizons BetaPro S&P/TSX Global Gold Bull Plus ETF ("HGU") is a leveraged sector-specific ETF that provides daily investment results that endeavor to correspond to two

times (200%) the daily performance of the S&P/TSX Global Gold Index. Units of HGU are speculative, high-risk securities.

26. The Respondent recommended the purchase of units of HGU for RF's account on or about March 17, March 19 and September 9, 2008. RF did not have any understanding of the risks of investing in leveraged sector-specific ETFs and the Respondent did not adequately explain the risks to him.
27. As of September 30, 2008, the value of the HGU units held RF's account constituted approximately 57% of the total account value.
28. Sometime after his initial purchase of units of HGU, RF had a discussion with the Respondent about the losses that he had suffered relating to these purchases. The Respondent made a recommendation to RF to continue to hold the units until they recovered their initial value.
29. The recommendations made by the Respondent to RF to purchase units of HGU were not suitable for RF given his investment objectives, risk tolerance, investment knowledge, financial circumstances, the account's initial investment portfolio composition and risk level and his time horizon for retirement.
30. The recommendations made by the Respondent to purchase units of HGU resulted in a concentration of HGU in RF's account that was not suitable given his investment objectives, risk tolerance, investment knowledge, financial circumstances, the account's initial investment portfolio composition and risk level and his time horizon for retirement.
31. The recommendations made by the Respondent to continue to hold units of HGU in RF's account after it had dropped significantly in value were not suitable given his investment objectives, risk tolerance, investment knowledge, financial circumstances, the account's initial investment portfolio composition and risk level, his time horizon for retirement and the particulars of HGU including its daily trading focus and short term investment objective.

**Active Control Tech Inc. and Appleton Exploration Inc.**

32. Active Control Tech Inc. ("ACT") is an issuer that is involved in the design, manufacture and marketing of wireless devices for the commercial access control industry and for underground mining communications and locating. Shares of ACT are speculative, high-risk securities. ACT is listed as a tier 2 company on the TSX Venture Exchange.

33. The Respondent recommended the purchase of shares of ACT for RF's account on or about April 23 and June 15, 2009 at prices of \$0.32 and \$0.20 per share, respectively.
34. Appleton Exploration Inc. ("AEX") is an issuer that is involved in evaluating, acquiring, exploring and developing natural resource properties. Shares of AEX are speculative, high-risk securities. AEX is listed as a tier 2 company on the TSX Venture Exchange.
35. The Respondent recommended the purchase of shares of AEX for RF's account on or about May 21, 2009 at a price of \$0.20 per share.
36. The recommendations made by the Respondent to RF to purchase shares of ACT and AEX were not suitable for RF given his investment objectives, risk tolerance, investment knowledge, financial circumstances, the account's initial investment portfolio composition and risk level and his time horizon for retirement.

#### **Losses**

37. The Respondent sold all of the units of HGU in RF's account in June 2009 for a total loss of \$31,840. This represented a 58% loss in value from the initial purchase prices of these units.
38. At the end of June 2009, RF's account had decreased in value by \$45,682.05, representing a 54% loss in value since February 29, 2008.

#### **IV. TERMS OF SETTLEMENT**

39. 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.
40. The Settlement Agreement is subject to acceptance by the Hearing Panel.
41. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.
42. 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.
43. If the Hearing Panel accepts the Settlement Agreement, the Respondent waives his/her/its right under IIROC rules and any applicable legislation to a disciplinary hearing, review or appeal.

44. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondent may enter into another settlement agreement; or Staff may proceed to a disciplinary hearing in relation to the matters disclosed in the Investigation.
45. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel.
46. Staff and the Respondent 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.
47. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately upon the effective date of the Settlement Agreement.
48. 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 Kamloops in the Province of  
British Columbia, this 12 day of March, 2014.

“Francis Carroll”  
**WITNESS**  
**NAME: FRANCIS CARROLL**

“Scott Bateman”  
**RESPONDENT**

**AGREED TO** by Staff at the City of Vancouver in the Province of British Columbia,  
this 9 day of April, 2014.

“Cindy Johnstone”  
**WITNESS**

“Stacy Robertson”  
**STACY ROBERTSON**  
Enforcement Counsel on behalf of  
Staff of the Investment Industry  
Regulatory Organization of Canada

**ACCEPTED** at the City of Vancouver in the Province of B.C. , this 28 day of May, 2014 , by the following Hearing Panel:

Per: \_\_\_\_\_  
"John Rogers"

Per: \_\_\_\_\_  
"Doug Stewart"

Per: \_\_\_\_\_  
"Karen Henderson"