

**IN THE MATTER OF:**

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

**AND**

**MICHAEL BALLANGER**

**SETTLEMENT AGREEMENT**

**PART I – INTRODUCTION**

1. The Investment Industry Regulatory Organization of Canada (“IIROC”) will issue a Notice of Application to announce that it will hold a settlement hearing to consider whether, pursuant to Section 8215 of the Consolidated Enforcement, Examination and Approval Rules of IIROC, a hearing panel (“Hearing Panel”) should accept the settlement agreement (“Settlement Agreement”) entered into between the staff of IIROC (“Staff”) and Michael Ballanger (“Respondent” or “Ballanger”).

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement in accordance with the terms and conditions set out below.

**PART III – AGREED FACTS**

3. For the purposes of this Settlement Agreement, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

## **Overview**

4. Ballanger was a Registered Representative at Richardson GMP (“RGMP”) at the material time. In 2013 Ballanger obtained confidential information by virtue of his connections at a high risk illiquid issuer known as Tinka Resources Ltd (“Tinka”).
5. In April 2013, Ballanger failed to comply with RGMP’s policies and procedures when he committed his firm to act for Tinka in a private placement financing without obtaining prior approval.
6. In October 2013, Ballanger failed to comply with RGMP’s policies and procedures by not advising RGMP in a timely manner that he was in possession of confidential or potentially material non public information regarding Tinka.

## **Background**

7. Ballanger was employed as a Registered Representative with RGMP from October 2012 until his employment was terminated in September 2014. Ballanger had been a registrant since 1977 and at one point was licensed as an Assistant Branch Manager. Ballanger has not been an IIROC registrant since leaving RGMP.
8. In a discussion with RGMP’s Chief Compliance Officer (“CCO”) and followed up by a November 15, 2012 email, Ballanger had been informed by the firm’s CCO of RGMP’s procedures regarding the proper handling of potentially material or confidential information.

## **Ballanger’s relationship with Tinka**

9. At the relevant time Tinka was a junior resource exploration company which focused on the development of precious metals mines.
10. In 2012 and 2013, Ballanger had a close working relationship with Tinka’s principals and received confidential information from them about the company.
11. Ballanger had recommended Tinka to many of his clients at RGMP. Between November 2012 and July 2013, approximately 10,570,550 shares of Tinka were transferred into RGMP in Ballanger’s book of business. This number represented approximately 13% of the issued and outstanding shares of Tinka at that time. A large portion of the Tinka positions (approximately 5 million shares) were purchased via private placements at RGMP.
12. By March 10, 2014 Ballanger client positions in Tinka represented 18% of the issued and outstanding shares of the company.

### **Ballanger commits RGMP to act for Tinka without prior approval**

13. RGMP's Compliance Policies and Procedures Manual dated June 2011 (the "Policies and Procedures Manual") provided that the New Product Review Committee review and approve all new third party investment products including private placements for sale within RGMP.
14. On April 24, 2013, Tinka issued a press release announcing a non-brokered private placement financing of up to 2,353,000 units at a price of \$0.85 cents per unit for gross proceeds of up to \$2,000,050. The press release stated that "Richardson GMP is acting for the Company and will be paid a commission consisting of cash and warrants on a portion of the financing."
15. Prior to April 24, 2013, Ballanger committed RGMP to act for Tinka in a non brokered private placement without the review or approval of RGMP and contrary to firm policies and procedures. Ballanger did not inform either RGMP's compliance department or his branch manager of this proposed financing before Tinka issued a press release announcing the private placement, nor did he notify the firm that he was in possession of confidential and potentially material non public information.
16. Subsequently RGMP approved the above private placement after the fact and participated in this financing.

### **Ballanger received confidential information regarding Tinka**

17. On October 8, 2013, Ballanger emailed RGMP's compliance department about a draft press release for a proposed Tinka financing. Ballanger had not previously notified RGMP about his knowledge or involvement in the proposed transaction or that he was in possession of confidential and potentially material non public information.
18. According to the Policies and Procedures Manual, Ballanger was required to inform RGMP's Compliance department if he was in possession of potential inside information. Given the circumstances of this transaction, Ballanger knew or ought to have known that he was required to inform RGMP of the confidential or potentially material non public information regarding Tinka.
19. In an October 8, 2013 email, RGMP's CCO reminded Ballanger of the firm's procedures relating to the receipt and containment of confidential information.
20. RGMP added Tinka to its grey list on October 8, 2013 and added it to the restricted list on November 7, 2013 when the private placement financing was announced publicly.
21. On November 8, 2013 RGMP's compliance department sent Ballanger an email questioning trades in Tinka executed for one of his clients between October 22 and 24, 2013, as these trades were not marked unsolicited.

### **Close supervision by RGMP**

22. RGMP questioned Ballanger further in February 2014 and when his responses were not satisfactory to the firm, Ballanger was placed under close supervision by RGMP in April 2014. At that time the following conditions were imposed:
- close supervision for a period of not less than six months;
  - all new accounts were to be reviewed by branch management;
  - he was not allowed to enter solicited buys in Tinka;
  - he was not allowed to reference Tinka in marketing materials;
  - he could not sell his personal holdings or trade in this security until all client sales were satisfied and,
  - he was to develop an exit strategy for this security, to be presented to management within 30 days.
23. In early June 2014 Ballanger met with the compliance department and was reminded that he was to do the following:
- prepare a written plan for the disposition of Tinka;
  - not to discuss investment recommendations on social media;
  - bring receipt of non public information to the attention of the compliance department and,
  - all marketing materials should be pre approved.
24. Ultimately the Respondent did not present an exit strategy for Tinka to RGMP. Ballanger's employment was terminated by RGMP in September 2014 before the close supervision period had ended.

### **Other**

25. The Respondent does not have a previous disciplinary history.
26. The Respondent is 65 years old and has indicated that he does not intend to return to the investment industry.
27. The Respondent acknowledges that but for certain financial circumstances, evidence of which has been provided to Staff, a greater fine and costs would have been provisions in this Settlement Agreement.

#### **PART IV – CONTRAVENTIONS**

28. By engaging in the conduct described above, the Respondent committed the following contraventions of IIROC's Rules:

**Count 1:** Between April and October 2013, the Respondent Michael Ballanger failed to comply with his Dealer Member firm's policies and procedures regarding new product reviews and the receipt and containment of confidential information, contrary to IIROC Dealer Member Rule 29.1.

#### **PART V – TERMS OF SETTLEMENT**

29. The Respondent agrees to the following sanctions:
- a) To pay a fine to IIROC in the amount of \$15,000;
  - b) A one year suspension from registration with IIROC;
  - c) To re-write and pass the Conduct and Practices Handbook Examination within 12 months of any re-registration with IIROC; and,
  - d) Six months of close supervision upon any re-registration with IIROC.
30. If this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Staff and the Respondent.

#### **PART VI – STAFF COMMITMENT**

31. If the Hearing Panel accepts this Settlement Agreement, Staff will not initiate any further action against the Respondent in relation to the facts set out in Part III and the contraventions in Part IV of this Settlement Agreement, subject to the provisions of the following paragraph.
32. If the Hearing Panel accepts this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Rule 8200 against the Respondent. These proceedings may be based on, but are not limited to, the facts set out Part III of this Settlement Agreement.

## **PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT**

33. This Settlement Agreement is conditional on acceptance by the Hearing Panel.
34. This Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing in accordance with the procedures described in Sections 8215 and 8428, in addition to any other procedures that may be agreed upon between the parties.
35. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If the Respondent does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the Hearing Panel.
36. If the Hearing Panel accepts the Settlement Agreement, the Respondent agrees to waive all rights under the IROC Rules and any applicable legislation to any further hearing, appeal and review.
37. 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 based on the same or related allegations.
38. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
39. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IROC will post a full of copy of this Settlement Agreement on the IROC website. IROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.
40. If this Settlement Agreement is accepted, the Respondent agrees that neither he nor anyone on his behalf will make a public statement inconsistent with this Settlement Agreement.
41. The Settlement Agreement is effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.

**PART VIII – EXECUTION OF SETTLEMENT AGREEMENT**

- 42. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.
- 43. A fax or electronic copy of any signature will be treated as an original signature.

**DATED** this “29” day of May, 2018.

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Witness

“Michael Ballanger”  
Respondent Michael Ballanger

“Frank Scali”  
Witness

“Kathryn Andrews”  
Kathryn Andrews  
Senior Enforcement Counsel on  
behalf of Enforcement Staff of the  
Investment Industry Regulatory  
Organization of Canada

The Settlement Agreement is hereby accepted this “6<sup>th</sup>” day of “June”, 2018 by the following Hearing Panel:

Per: “Joan Smart”  
Panel Chair

Per: “Ranee Pavalow”  
Panel Member

Per: “Nick Pallotta”  
Panel Member