

## **10.5 Powers and Remedies**

- (1) The Market Regulator may, following a hearing and a determination that a Regulated Person, other than a marketplace for which the Market Regulator is or was the regulation services provider, has contravened a Requirement or is liable for the contravention of a Requirement in accordance with Rule 10.3, by an order impose on such person one or more of the following penalties or remedies as the Market Regulator considers appropriate in the circumstances:
  - (a) a reprimand;
  - (b) a fine not to exceed the greater of:
    - (i) \$1,000,000, and
    - (ii) an amount equal to triple the financial benefit which accrued to the person as a result of committing the contravention;
  - (c) the restriction of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate;
  - (d) the suspension of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate;
  - (e) the revocation of access to the marketplace; and
  - (f) any other remedy determined to be appropriate under the circumstances.
  
- (2) If the Market Regulator has determined that a Regulated Person, other than a marketplace for which the Market Regulator is or was the regulation services provider, has engaged in, or may engage in, any course of conduct that is or may be a contravention of a Requirement, the Market Regulator may, if the Market Regulator considers it is necessary for the protection of the public interest by an interim order without notice or hearing, order the restriction or suspension of access to the marketplace upon such terms and conditions, if any, considered appropriate provided such interim order shall expire 15 days after the date on which the interim order is made unless:
  - (a) a hearing is commenced within that period of time to confirm or set aside the interim order;
  - (b) the person against which the interim order is made consents to an extension of the interim order until a hearing of the matter is held; or
  - (c) an applicable securities regulatory authority directs that the interim order be rescinded or extended.

- (3) For the purposes of this section, the restriction, suspension or revocation of access of a person to a marketplace may be imposed directly on the person and, if the person is an individual, the restriction, suspension or revocation of access may also be imposed in respect of their capacity as a director, officer, partner, employee or associate of a person with access to a marketplace.
- (4) For greater certainty, any enforcement or disciplinary proceeding or any order or interim order as against a person by a Market Regulator for contravention of a Requirement shall not affect or limit any enforcement or disciplinary action as against the person by any securities regulatory authority, self-regulatory entity or other Market Regulator with jurisdiction over the person.
- (5) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace in accordance with this section, such person shall be denied access to any other marketplace and shall have any access to any other marketplace automatically restricted, suspended or revoked unless the applicable securities regulatory authority otherwise determines in a review or appeal of the order or interim order of the Market Regulator undertaken in accordance with Rule 11.3.
- (6) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace, the Market Regulator shall provide notice forthwith of such restriction, suspension or revocation to:
  - (a) the person whose access has been restricted, suspended or revoked;
  - (b) each marketplace;
  - (c) each Market Regulator; and
  - (d) each applicable securities regulatory authority.

**Defined Terms:** NI 21-101 section 1.1 – “regulation services provider” and “self-regulatory entity”  
 UMIR section 1.1 – “hearing”, “Market Regulator”, “marketplace” and “Regulated Person”  
 UMIR section 1.2(2) – “person”

**Disciplinary Proceedings:** ***In the Matter of Global Securities Corporation (“Global”) (June 20, 2003) Decision 2003-004***  
*Facts – Between May 1, 1997 and January 31, 1998, Global failed to diligently supervise its employees. The Committee found that the infractions alleged against Global were proven. A number of prior settlement agreements approved by either the Alberta Stock Exchange or the Vancouver Stock Exchange which had been place before a prior committee of the TSX Venture Exchange where not approved. The only issue before the current Committee was the appropriateness of the penalty to be levied against Global.*  
*Held - The fact that Global suffered a loss of approximately \$1.7 million as a result of the conduct of the investment advisors was not in the view of the Committee a factor of significant weight. In considering an appropriate penalty, the Committee looked at earlier unrelated settlement agreements.*

Comparable UMIR Provision – Rule 10.5

Sanction - \$135,000 fine and costs of \$12,000; disgorgement of \$4,330 in profits

**Disciplinary Proceedings:** **In the Matter of Global Securities Corporation (“Global”), Robert Semple (“Semple”), Robert Tassone (“Tassone”) and Bruce McConnachie (“McConnachie”) (January 5, 2004) Decision 2004-001**

*Facts - Between November 1994 and August 1996, Semple and Tassone, while approved persons at Global failed to ensure that their recommendations were suitable for their clients and also provided advice respecting options trading without being qualified. McConnachie, who was the Branch Manager, failed to diligently supervise the trading that was carried out by Semple and Tassone in the clients’ accounts. Semple and Tassone repaid all of the commissions and losses, with interest and penalty, to the clients, and have been placed under strict supervision for a period of seven years. They have also paid significant legal fees in connection with the related civil action launched by the clients. Based on the above, they submit that they should not have to pay the additional fines levied by the Canadian Venture Exchange.*

*Held – In light of the adverse impact of being under strict supervision, damage to their reputations, and other factors which Tassone and Semple have suffered as a result of this matter, the Panel ordered that the sanctions imposed on both men be reduced. Due to unrelated personal matters affecting McConnachie, his fine was also reduced.*

Comparable UMIR Provision – Rule 10.5

Sanction –

Semple - \$15,000 fine and costs of \$10,000; successful rewrite of the Conduct and Practices Handbook examination

Tassone - \$10,000 fine and costs of \$10,000; successful rewrite of the Conduct and Practices Handbook examination

McConnachie - \$20,000 fine and costs of \$5,000; successful rewrite of the Branch Manager’s Examination