

IN THE MATTER OF:

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

AND

THE UNIVERSAL MARKET INTEGRITY RULES

AND

JITNEYTRADE INC.

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 JitneyTrade Inc. (“JitneyTrade” or the “Respondent”).

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. Between September 2013 and October 2014 (the “Relevant Period”), JitneyTrade failed to implement an effective trading supervision system and failed to act as a gatekeeper to prevent and detect violations or potential violations of UMIR 2.2 and UMIR Policy 2.2 by one of its direct electronic access clients, Oasis World Trading Inc. (“Oasis”).
5. JitneyTrade’s trade supervision failures allowed Oasis to repeatedly engage in manipulative trading practices known as “spoofing” or “layering” on IIROC-regulated marketplaces. During the Relevant Period, JitneyTrade concluded that Oasis had engaged in suspicious or potentially manipulative trading practices on 10 occasions and yet did not take adequate steps to prevent and detect further manipulative trading practices.
6. JitneyTrade has a prior disciplinary history for failing to comply with its trading supervision obligations under UMIR 7.1 and UMIR Policy 7.1. In April 2013, JitneyTrade was fined \$90,000 for failing to implement an appropriate trade supervision system reasonably well designed to prevent and detect violations of UMIR for the size and nature of its Direct Market Access Client’s business.

Background

8. JitneyTrade is registered as an investment dealer and is a Participant under UMIR. JitneyTrade is a discount broker that provides direct electronic access to IIROC-regulated marketplaces to clients.
9. Oasis is engaged in proprietary trading and has an interconnect agreement with JitneyTrade whereby its orders are routed through JitneyTrade directly to IIROC-regulated marketplaces.

10. In providing direct electronic access to IIROC-regulated marketplaces, a Participant is not relieved from any obligations under UMIR with respect to the supervision of trading activities by a direct electronic access client. The Participant retains full responsibility for any order entered by a direct electronic access client and the Participant must adequately address the additional risks posed by orders entered directly by clients to the marketplaces.
11. UMIR 7.1 and UMIR Policy 7.1 require a Participant to develop and implement policies and procedures that are reasonably well designed to ensure that orders entered on a marketplace through a Participant are not part of a manipulative or deceptive method, act or practice nor an attempt to create an artificial price or a false or misleading appearance of trading activity or interest on the purchase or sale of a security.
12. UMIR 2.2 and Policy 2.2 prohibit manipulative and deceptive trading activity on IIROC-regulated marketplaces, including, among other activities, entering an order or series of orders for a security that are not intended to be executed.
13. Spoofing or layering are manipulative trading practices whereby orders are entered with no intention that they be executed (*non-bona fide* orders) in order to temporarily manipulate the price of a security in order to secure a price advantage to the detriment of other market participants. These manipulative trading practices disrupt and distort the genuine price formation process of the marketplace.
14. Spoofing generally involves the entry of *non-bona fide* orders in the pre-open trading session on a marketplace that displays a “Calculated Opening Price” (“COP”) for the purpose of affecting the COP.
15. Layering generally involves entering *non-bona fide* orders on one side of the market to create or attempt to create a false or misleading appearance of trading activity or interest in a security or an artificial price in order to induce, or bait, other market participants,

often those using algorithmic trading systems, to enter better priced orders in order to secure a price advantage for an order or orders entered on the opposing side of the market. The non-*bona fide* orders are cancelled shortly before or after the execution of the advantageous order.

Failure to Implement an Effective Trading Supervision System

16. JitneyTrade used an electronic surveillance system developed in-house to detect manipulative trading activity (the “Surveillance System”). The Surveillance System generates alerts for manipulative activity based on parameters set by JitneyTrade.
17. According to JitneyTrade’s policies and procedures, alerts for spoofing and layering are to be reviewed on a daily basis. During the Relevant Period, Oasis triggered numerous alerts for spoofing and layering on a daily basis.
18. JitneyTrade did not quantify or analyze the type, or number, of alerts being generated by Oasis on a daily or monthly basis. As a result, JitneyTrade could not adequately measure or assess the volume of potentially manipulative trading being flagged by the Surveillance System for Oasis and therefore could not make a reasonable determination of whether its compliance testing was adequate or whether it needed to be increased.
19. For example, the volume of layering alerts triggered by Oasis increased significantly in March 2014. This increase in volume should have prompted inquiries of the client and increased post order entry testing and analysis to determine whether manipulative activity was occurring.
20. JitneyTrade ought to have known that there were events of manipulative trading by Oasis, often flagged by other market participants or IIROC’s Surveillance Department and brought to JitneyTrade’s attention, that were not detected by the Surveillance System. This should have caused JitneyTrade to re-evaluate the parameters of the Surveillance System’s alerts.

Failure to Act as a Gatekeeper

21. In 2014, JitneyTrade filed ten reports with IIROC pursuant to UMIR 10.16 relating to manipulative trading practices by Oasis in ten securities trading on IIROC-regulated marketplaces (the “Gatekeeper Reports”). JitneyTrade was therefore aware that Oasis had engaged in manipulative trading practices.
22. Despite this knowledge and the alerts being generated by the Surveillance System for spoofing and layering on a daily basis, JitneyTrade did not take any heightened measures to supervise Oasis’ trading.
23. Except for an event on October 28, 2014, the Surveillance System did not trigger an alert for any of the remaining trading events that were the subject of the Gatekeeper Reports. The Gatekeeper Reports did not prompt JitneyTrade to assess why the Surveillance System was not generating alerts for events JitneyTrade reported as potentially manipulative.
24. According to the Gatekeeper Reports, JitneyTrade requested that warnings and suspensions be issued to Oasis’ traders. However, JitneyTrade had no ability to determine which Oasis trader was responsible for the manipulative trading as all of Oasis’ trading activity was entered under a common trading identification number. JitneyTrade relied on Oasis’ assurances that warnings and suspensions were imposed on the traders responsible.
25. JitneyTrade filed a Gatekeeper Report relating to events of spoofing and layering on April 8, 2014. JitneyTrade concluded that the trading activity was clearly suspicious. On that day, Oasis executed 6628 trades, triggering 21 Surveillance System alerts for spoofing and 82 alerts for layering. The events that were the subject matter of the Gatekeeper Report did not trigger an alert.

26. JitneyTrade did not adequately review the spoofing and layering alerts generated by the Surveillance System, despite being aware of repeat events of manipulative trading by Oasis, and thereby failed to discharge its gatekeeper obligation to prevent and detect violations of UMIR 2.2 and UMIR Policy 2.2.
27. Based on a review of Oasis' trading in April 2014, IIROC Staff concluded that there were more than 350 events of layering that may constitute contraventions of UMIR 2.2 and UMIR Policy 2.2.
28. In December 2015, the Ontario Securities Commission found that between November 2013 and December 2014, Oasis had engaged in manipulative trading on Canadian securities markets, contrary to section 126.1(1(a) of the Ontario Securities Act.

Remedial Measures

29. As a term of the Settlement Agreement, the Respondent has agreed to implement the following remedial measures:
 - (i) In conjunction with a consultant approved by IIROC Staff, the Respondent will revise the Surveillance System's alert parameters (in particular for alerts related to "layering" and "spoofing");
 - (ii) Upgrade the Surveillance System in the following areas of focus:
 - i. Incorporating additional parameters where needed;
 - ii. Augmenting the system's filtering and/or processing capabilities;
 - iii. Implementing better investigation tracking and resolution mechanisms where potential violations are detected;
 - (iii) Revise its policies and procedures with regard to the quantification and analysis of the number of alerts with regard to manipulative activity;

- (iv) Revise its policies and procedures relating to the review of a representative sample of the generated alerts;
- (v) Revise the mechanisms in place to verify and monitor suspensions and terminations of traders working for direct electronic access clients; and
- (vi) Require Oasis to submit to a review of the measures taken by Oasis to improve its supervision and compliance system.

Conclusion

- 30. The purpose of UMIR 2.2 is to prohibit the use of manipulative or deceptive methods, acts or practices which harm market integrity and undermine market confidence. Pursuant to UMIR 7.1, a Participant is required to implement a trading supervision system that is reasonably designed to prevent and detect contraventions of UMIR 2.2. In performing the trading supervision obligations, the Participant must act as a gatekeeper to help prevent and detect contraventions of UMIR.
- 31. During the Relevant Period, JitneyTrade did not take adequate steps to implement an effective trading supervision system or to discharge its gatekeeper obligation to prevent and detect violations of UMIR 2.2 and UMIR Policy 2.2.

PART IV – CONTRAVENTIONS

- 32. The Respondent agrees to the following contravention:

Between September 2013 and October 2014, the Respondent failed to comply with its trading supervision obligations to prevent and detect violations of UMIR 2.2 by one of its direct electronic access clients, contrary to UMIR 7.1 and UMIR Policy 7.1.

PART V – TERMS OF SETTLEMENT

33. The Respondent agrees to the following sanctions and costs:
- (i) a fine of \$200,000.00 payable by the Respondent to IIROC; and
 - (ii) costs of \$25,000.00 payable by the Respondent to IIROC.
34. The Respondent agrees to implement the remedial measures described in paragraph 29 and provide a report to Staff outlining the implementation and adoption date of the remedial measures within six (6) months of the acceptance date of the Settlement Agreement.
35. 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

36. 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 contravention in Part IV of this Settlement Agreement, subject to the provisions of paragraph 37 below.
37. 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

38. This Settlement Agreement is conditional on acceptance by the Hearing Panel.

39. 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.
40. 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.
41. If the Hearing Panel accepts the Settlement Agreement, the Respondent agrees to waive all rights under the IIROC Rules and any applicable legislation to any further hearing, appeal and review.
42. 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.
43. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
44. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full of copy of this Settlement Agreement on the IIROC website. IIROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.
45. If this Settlement Agreement is accepted, the Respondent agrees that neither it nor anyone on its behalf, will make a public statement inconsistent with this Settlement Agreement.

46. 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

47. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.

48. A fax or electronic copy of any signature will be treated as an original signature.

DATED this 22nd day of March, 2017.

“Witness” _____
Witness

“Jitney Trade Inc.” _____
per JitneyTrade Inc.

DATED this 22nd day of March, 2017.

“Witness” _____
Witness

“Charles Corlett” _____
Charles Corlett
Senior Enforcement Counsel on
behalf of Enforcement Staff of the
Investment Industry Regulatory
Organization of Canada

The Settlement Agreement is hereby accepted this 29th day of March, 2017 by the following Hearing Panel:

Per: “Benjamin Greenberg”
Panel Chair

Per: “John Ballard”
Panel Member

Per: “Danielle Le May
Panel Member