Court File No.CV-2000641059-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
R.S.O. 1990, C. B.16, AS AMENDED

AND IN IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C., 1985, C. C-44, AS AMENDED

AND IN THE MATTER OF A WINDING UP OF
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,
PACE INSURANCE BROKERS LIMITED AND
PACE GENERAL PARTNER LIMITED

Applicants

SECOND REPORT OF THE LIQUIDATOR

July 31, 2020

INTRODUCTION

1. This second report (the "**Second Report**") is filed by Ernst & Young Inc. ("**EYI**" or the "**Liquidator**") in its capacity as Liquidator of the estate and effects of the Applicants, Pace Securities Corp. ("**PSC**"), Pace Financial Limited ("**PFL**"), Pace Insurance Brokers Limited ("**PIB**") and Pace General Partner Limited ("**PGPL**") (collectively the "**Companies**") appointed pursuant to the Order of the Honourable Mr. Justice Hainey dated May 14, 2020 (the "**Appointment Order**"). A copy of the Appointment Order is attached hereto as **Appendix "A"**.

2. The purpose of this Second Report is to provide the Court with information in connection with the motion to appoint Paliare Roland Rosenberg Rothstein LLP ("**Paliare Roland**") as representative counsel ("**Representative Counsel**") for the Investor Claimants (as defined below).

TERMS OF REFERENCE

3. In preparing this Second Report and making the comments herein, the Liquidator has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the Companies' books and records, discussions with the management of the Companies and information from other third-party sources (collectively, the "**Information**"). Future oriented financial information relied upon in this Second Report is based on assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

4. The Liquidator has not audited, reviewed or otherwise verified the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Professional Accountants Handbook and, accordingly, the Liquidator expresses no opinion or other form of assurance in respect of the Information.

5. The Liquidator will make a copy of this Second Report, and related documents, available on the Liquidator's website at www.ey.com/ca/pacesecurities.

6. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian Dollars.

OVERVIEW

7. PSC and PFL are each corporations incorporated under the *Business Corporations Act* (Ontario). Their registered and head office is located at 50 Burnhamthorpe Road West, Suite 600, Mississauga, Ontario L5B 3C2. Joe Thomson was the CEO and was a director of PSC and PFL.

8. PSC is an investment dealer regulated by The Investment Industry Regulatory Organization of Canada ("**IIROC**") and an investment fund manager regulated by the Ontario Securities Commission ("**OSC**").

9. PSC did not hold its customers' cash and securities itself. Rather, pursuant to the IIROC rules, PSC was an introducing broker that was a party to an Introducing Type 2

Arrangement and, as such, PSC's client accounts were held with its carrying broker, Laurentian Bank Securities Limited ("**LBS**").

10. PFL carried on business as an investment vehicle for accredited investors to earn fixed dividends from an investment in a basket of high-yield bonds. PFL raised capital by selling preference shares. PFL used those proceeds to purchase high-yield bonds on "margin"[1] through its accounts at PSC. The interest and any trading profits earned on the bonds net of management costs from PSC and other expenses were to be used to fund regular dividend payments to the preference shareholders.

11. Almost all of PFL's investors are retail investors, and many of its investors also have accounts with PSC. PSC provided brokerage, investment and business management services to PFL.

12. Like PFL, First Hamilton Holdings Inc. ("**FHH**")[2] sold preference shares, accompanied by warrants for one series of shares, to investors and used the proceeds from those shares to invest in a basket of high-yield bonds, the interest and gains on which were intended to be used to pay management fees to PSC and dividends to holders of the preference shares, as well as to fund other business ventures. As at the date of the Appointment Order, FHH was indebted to LBS in the approximate amount of $2.8 million on account of margin provided by LBS to FHH.

13. PGPL is a corporation incorporated under the *Canada Business Corporations Act* and is a holding company that owns 100% of the common shares of PFL. PGPL also acts as the general partner for Pace Capital Partners L.P. ("**PCP**").

14. PCP is a limited partnership. PCP raised money from accredited investors and invested the proceeds in high-yield bonds on margin through LBS. The majority of investors that subscribed for units of PCP have since redeemed their units. There are five remaining investors in and limited securities (mostly illiquid) owned by PCP. PCP is indebted to LBS

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[1] Margin is a form of loan whereby the broker loans money to its client to allow the client to purchase more securities than could otherwise be purchased with the amount of money the client has available in the account. The interest-bearing loan in the account is collateralized by the securities and cash in the account. Because LBS is PSC's carrying broker, any margin loans provided through a PSC account were in fact provided by LBS.

[2] Joe Thomson was the CEO and is a director of FHH.

in the approximate amount of $107,000 on account of margin provided by LBS to PCP. PSC provided brokerage, investment and business management services to PCP.

LIQUIDATION AND REGULATORY PROCEEDINGS

15. On May 14, 2020, EYI was appointed as Liquidator of the estate and effects of the Companies. Pursuant to the Appointment Order, all of the Companies' employees were terminated.

16. IIROC convened an expedited hearing and, on May 21, 2020, a Hearing Panel of IIROC issued an order, among other things, suspending PSC's membership in IIROC and ordering that PSC immediately cease dealing with the public.

17. Also, on May 21, 2020, MNP Ltd. ("**MNP**") was appointed, pursuant to an order of this Court as liquidator of the estate and effects of, among other entities, FHH (the "**FHH Liquidator**")[3].

18. On June 5, 2020 the OSC suspended PSC's investment fund manager registration.

19. On June 17, 2020, IIROC issued a Notice of Hearing and a Statement of Allegations for disciplinary proceedings against two former officers of PSC, Joseph Thomson and Gerald McRae, copies of which are attached hereto collectively as **Appendix "B"**. Among other roles, Joseph Thomson was the Chief Executive Officer of PSC, PFL and FHH. Gerald McRae was the Chief Compliance Officer of PSC. The Overview of the Statement of Allegations provides as follows:

> 1. *Between 2017 and 2019, PSC offered preferred shares of PFL and FHHI to its clients. Thomson was the CEO and UDP of PSC and held multiple roles with PFL and FHHI, which generated potential material conflicts of interest. While PSC and Thomson's relationships with PFL and FHHI were disclosed in the Offering Memoranda, Thomson did not take reasonable steps to identify the conflicts, failed to consider the implications of the conflicts or address them in a fair, equitable and transparent manner, and consistent with the best interests of PSC's clients, as required by Dealer Member Rule 42.*

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[3] This proceeding and the FHH liquidation proceeding are referred to herein collectively as the "**Liquidation Proceedings**". The Liquidator and the FHH Liquidator are referred to herein collectively as the "**Liquidators**".

2. *These failures led to Thomson:*

   i. *approving the sale of PFL and FHHI, which he created and managed and from which PSC obtained fees, to PSC clients without evaluating the potential conflicts of interest that could arise;*

   ii. *executing Management Agreements, including fee arrangements, between PSC and PFL on behalf of both parties and amending these to the detriment of PSC clients;*

   iii. *withdrawing funds from PFL's accounts in excess of those disclosed in the Offering Memorandum;*

   iv. *failing to disclose that he received additional payments from FHHI in excess of those disclosed in the Offering Memoranda; and*

   v. *investing FHHI funds in his own company.*

3. *In addition, as the portfolio manager of the underlying investments of PFL and FHHI, Thomson failed to ensure that the investments were made in accordance with the objectives set out in the respective Offering Memoranda.*

4. *PFL and FHHI were high-risk investments. Thomson failed to ensure that the sale of PFL and FHHI to certain PSC clients was suitable and matched the risk tolerances and objectives set out in the clients' account documentation.*

5. *McRae, as PACE's CCO, failed to monitor and assess compliance by PSC, Thomson and other individuals acting on PSC's behalf, with respect to the sale of PFL and FHHI to PSC's clients and failed to adequately supervise Thomson's activities related to PFL and FHHI, as described in greater detail below.*

20. The Liquidator understands that Messrs. Thomson and McRae deny these allegations and are opposing the relief sought against them by IIROC.

PFL AND FHH PREFERENCE SHARES AND WARRANTS

21. According to PFL's offering memorandum dated June 27, 2017 (subsequently revised July 20, 2017), PFL's business plan was to offer preference shares for sale to customers who were looking for fixed income securities. The proceeds from the subscription of preference shares would be used to purchase eligible debt instruments and to pay for the costs of the offering. Income provided by these debt instruments would pay for general corporate overhead and operating expenses.

22. PFL's preference shares were known as the Series A Cumulative Redeemable Retractable Non-voting Term Preference Shares. These preference shares offered base dividends at 5% per annum and were also both redeemable and retractable under certain conditions, with a fixed redemption date of December 31, 2022. Between July 2017 and February 2018, approximately 1.63 million of PFL's preference shares were sold at a price of $10 per share. In May 2018, all outstanding shares were split, which resulted in a total of approximately 3.3 million outstanding shares at a total investment value of approximately $16.3 million.

23. Of these 3.3 million outstanding preference shares, as of the end of May 2020,

a. approximately 600,000 preference shares were held in trust by LBS in registered retirement accounts of PSC's clients, at an initial investment value of approximately $3.0 million;

b. approximately 2.5 million preference shares were held in trust by LBS in non-registered accounts of PSC's clients or held as physical certificates by the shareholders, all at a total initial investment value of approximately $12.5 million; and

c. the remaining shares were redeemed or retracted by PFL for various reasons.

24. According to FHH's offering memoranda dated April 30, 2018 and May 1, 2018, FHH offered two series of preference shares for sale to customers who were looking for fixed income securities. The proceeds from the subscription of two series of preference shares, along with borrowed funds, would be used to purchase eligible debt instruments.

25. In May 2018, FHH began concurrently offering Series B 5% Cumulative Redeemable Retractable Non-voting Preference Share as well as units comprised of Series A 7% Cumulative Non-voting Preference Shares and Class A share purchase warrants. Between April 2018 and June 2019, approximately 3.3 million of FHH's preference shares and units were sold at a price of $10 each, for a total investment value of approximately $32.5 million.

26. Of these 3.3 million outstanding shares/units, as of the end of May 2020,

a. approximately 1.4 million shares/units were held in trust by LBS in registered retirement accounts of PSC's clients, at an initial investment value of approximately $14.0 million;

b. approximately 1.8 million shares/units were held in trust by LBS in non-registered accounts of PSC's clients as physical certificates by the shareholders, all at a total initial investment value of approximately $17.5 million; and

c. the remaining shares/units were redeemed or retracted by FHH for various reasons.

27. In November 2019, the preference shares of both PFL and FHH were re-valued as follows as at August 31, 2019:

a. PFL shares were reduced from their original cost base of $5/share to $4.22/share;

b. FHH Series A shares were reduced from their original cost base of $9.50/share (excluding the $0.50 allocated to the cost of the accompanying warrants) to $8.17/share; and

c. FHH Series B shares were reduced from their original cost base of $10/share to $7.49/share.

28. In April 2020, due to the impact of the COVID-19 pandemic on the global economy, PSC re-valued the market price of the preference shares of both PFL and FHH again. PFL preference shares were valued at $1.62/share for a total value of approximately $5.0 million for all outstanding shares. Both series of FHH preference shares were valued at $1.44/share for a total value of $4.5 million for all outstanding shares. These valuations represented approximately a 68% decrease of total initial investment value for PFL preference shareholders and an 86% decrease of total initial investment value for FHH preference shareholders.

29. Absent a recovery from third party sources, it appears unlikely that there will be any significant distributions available from the Liquidation Proceedings for the holders of PFL or FHH preference shares or warrants.

INVESTOR CLAIMANTS

30. The Liquidator's understanding is that many of the Investor Claimants are of retirement age, likely have limited ability to mitigate their investment losses, and would have difficulty assessing or enforcing their legal position and options without the benefit of legal advice and representation. This is supported by the significant number of preference shares that were held in registered retirement accounts as described in paragraphs 23 and 26 above.

INVESTOR CLAIMS

31. EYI has been made aware of claims and/or potential claims by holders of PFL and FHH preference shares and warrants (collectively referred to herein as the "**Investor Claimants**") against various parties including the Companies, FHH, Pace Savings & Credit Union Ltd. ("**PACE Credit Union**"), and their respective directors and officers (collectively, the "**Potential Defendants**").

32. EYI understands that the majority of the Investor Claimants are members of PACE Credit Union.

33. EYI understands that various law firms have been contacted by one or more Investor Claimants with a view to potentially commencing litigation against one or more of the Potential Defendants.

PROPOSED REPRESENTATIVE COUNSEL

34. Following discussions with the FHH Liquidator starting in early July 2020, EYI began a dialogue with Paliare Roland regarding its retainer on behalf of certain Investor Claimants.

35. On or about July 8, 2020, counsel for EYI and the FHH Liquidator (collectively, the "**Liquidators**") received a letter from Paliare Roland, a copy of which is attached hereto as **Appendix "C"**.

36. Since that date, the Liquidators have engaged in a constructive dialogue with Paliare Roland which has also included PACE Credit Union. Paliare Roland has confirmed to the

Liquidators that it has been in contact with over 27 Investor Claimants as of the date of this report.

37. The Liquidators and Paliare Roland have now agreed upon the terms for the appointment of Paliare Roland as Representative Counsel, subject to the approval of this Court, on the basis of the draft order being submitted jointly and attached to the Liquidators' Notices of Motion (the "**Proposed Representative Counsel Order**").

38. The Proposed Representative Counsel Order provides for the appointment of Paliare Roland as Representative Counsel for the Investor Claimants on the following terms:

    a. Representative Counsel, acting in consultation with the Liquidators, would be authorized to form a committee of investors to advise it (the "**Representative Committee**");

    b. Representative Counsel would be authorized to take such steps and to perform such acts as are necessary or desirable for the purpose of representing the Investor Claimants, including, without limitation:

        i. developing a process in consultation with the Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims;

        ii. addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;

        iii. reporting and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and

        iv. performing such other actions as approved by this Court;

c. Investor Claimants would have the ability to opt out from being represented by Representative Counsel;

d. the fees and expenses of Representative Counsel would be paid out of the funds recovered for the Investor Claimants pursuant to or by virtue of this appointment, in accordance with terms to be agreed with the members of the Representative Committee and approved by this Court in the ordinary course, or, in the absence of an agreement, as directed by further order of this Court, having regard to the resources invested, risk assumed and results achieved by Representative Counsel, together with such other considerations as this court determines to be relevant;

e. until Representative Counsel has completed its mandate or until this Court otherwise directs, no proceeding or enforcement process in respect of Tolled Claims (as defined in the Proposed Representative Counsel Order) shall be commenced or continued in any Court or tribunal against or in respect of the Companies, or any of their related entities, including PACE Credit Union, except with leave of this Court, and any and all Proceedings currently under way against or in respect of such parties would be stayed and suspended pending further order of this Court; and

f. the extent that any Limitation Period (as defined in the Proposed Representative Counsel Order) expires on or after the date of the Proposed Representative Counsel Order, such Limitation Period would be tolled such that it ceases to continue running.

39. The Proposed Representative Counsel Order includes a provision for an exclusivity period that would offer PACE Credit Union the opportunity to present a settlement and/or settlement package in respect of direct and indirect Investor Claims (including claims over and third party claims) against the Credit Union and/or its officers and directors in respect of the PFL and FHH preference shares and warrants, for consideration by Representative Counsel and the Liquidators. Paliare Roland has agreed to this provision, and accordingly, the Liquidator is agreeable to inclusion of this provision in the Proposed Representative Counsel Order.

40. EYI has reviewed the qualifications of Paliare Roland to act as Representative Counsel, as set out in **Appendix "D"** attached hereto.

41. EYI supports the appointment of Paliare Roland as Representative Counsel on the terms of the Proposed Representative Counsel Order for the following reasons:

    a. EYI is satisfied with the qualifications and relevant experience of Paliare Roland to act on this mandate;

    b. the Investor Claimants are a vulnerable and disparate group of individuals, including seniors, that would benefit from Representative Counsel assisting them in navigating the Liquidation Proceedings and advancing their claims;

    c. as proposed, Representative Counsel would act as a single point of contact to receive and distribute pertinent information and coordinate communication with the Investor Claimants;

    d. the potential multiplicity of actions threatened to be commenced in relation to the PFL or FHH preference shares or warrants would not provide comprehensive representation for all Investor Claimants;

    e. the appointment of Representative Counsel will allow for all of the claims that could be asserted by the Investor Claimants to be addressed in an efficient, timely and consistent manner under the exclusive jurisdiction of this Court;

    f. the appointment of Representative Counsel would assist in ensuring that all Investor Claimants are able to participate meaningfully and effectively in any process to resolve or adjudicate these claims;

    g. the appointment of Representative Counsel will benefit not only the Investor Claimants by improving their access to justice, but also other stakeholders by reducing the administrative burden associated with these proceedings; and

h. given the vulnerability of the Investor Claimants, the social benefit to be derived from their representation by experienced counsel and the facilitation of the resolution of their claims in an efficient, timely and consistent manner, it is fair and just to appoint Representative Counsel.

RECOMMENDATION

42. For the reasons enumerated above, the Liquidator recommends the appointment of Paliare Roland on the terms set out in the Proposed Representative Counsel Order.

All of which is respectfully submitted this 31st day of July, 2020.

ERNST & YOUNG INC.,
Solely in its capacity as Liquidator of
Pace Securities Corp., Pace Financial Limited,
Pace Insurance Brokers Limited, and Pace General Partner Limited
and not in its personal or corporate capacity

Per:

Jeffrey D. Kerbel
Senior Vice-President

Appendix A

Court File No. • CV-20-641059-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	WEDNESDAY, THE 14th DAY
	)	
JUSTICE HAINEY	)	OF MAY, 2020

SUPERIOR COURT OF JUSTICE
JUSTICIA
COUR SUPÉRIEURE DE JUSTICE

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B.16, AS AMENDED

AND IN IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C., 1985, C. C-44, AS AMENDED

AND IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER LIMITED

WINDING-UP ORDER

THIS APPLICATION, made by Pace Securities Corp. ("**PSC**"), Pace Financial Limited ("**PFL**"), Pace Insurance Brokers Limited ("**PIB**"), Pace General Partner Limited ("**PGPL**", together with PSC, PFL and PIB, the "**Companies**"), pursuant to section 207 of the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended (the "**OBCA**") and section 214 of the *Canada Business Corporations Act*, RSC 1985, c. C-44 (the "**CBCA**"), for an Order, among other things, winding up each of the Companies, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Mitch Vininsky affirmed on May 14, 2020, and on hearing the submissions of counsel for the Companies,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS** that that each of the Companies shall be wound up pursuant to section 207 of the OBCA and section 214 of the CBCA with effect as of the date of this Order.

NO PROCEEDINGS AGAINST THE COMPANIES OR THEIR PROPERTY

3. **THIS COURT ORDERS** that from the date of this Order until further order of this Court (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Companies, any of its subsidiaries or affiliates, or the Liquidator, or affecting any of the Companies' current or future assets, undertakings or properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, and for greater certainty, including all funds on deposit with Laurentian Bank Securities and all customer accounts (collectively, the "**Property**"), except with the written consent of the Liquidator, or with leave of this Court, and any and all Proceedings currently under way against or in respect of or affecting the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

4. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Companies or the Liquidator, or affecting the Property, including rights of set-off, are hereby stayed and suspended except with the written consent of the Liquidator, or leave of this Court, provided that nothing in this Order shall: (i) empower the Liquidator to carry on any business which the Companies are not lawfully entitled to carry on; (ii) exempt the Liquidator from compliance with statutory or regulatory provisions relating to health, safety or the environment;

(iii) prevent the filing of any registration to preserve or re-perfect an existing security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

5. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sub-lease, licence or permit in favour of or held by the Companies, except with the written consent of the Liquidator, or leave of this Court.

CONTINUATION OF SERVICES

6. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Companies or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, employee benefits, transportation services, utility, leasing or other services to the Companies, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Companies' current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

7. **THIS COURT ORDERS** that during the Stay Period, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Companies with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Companies whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers of the Companies, except with the written consent of the Liquidator or leave of this Court.

THE LIQUIDATOR

8. **THIS COURT ORDERS** that Ernst & Young Inc. is hereby appointed pursuant to section 210 of the OBCA and section 217(b) of the CBCA as liquidator (in such capacity, the "**Liquidator**") of the estate and effects of the Companies for the purpose of winding up their business and affairs and distributing their Property, and the Companies' officers, directors, employees, consultants, agents, experts, accountants, counsel and such other persons currently retained or employed by it shall co-operate fully with the Liquidator in the exercise of its powers and discharge of its obligations and provide the Liquidator with the assistance that is necessary to enable the Liquidator to adequately carry out the its functions.

9. **THIS COURT ORDERS** that the Liquidator is expressly empowered and authorized, but not obligated, to do any of the following:

(a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

(b) deposit all money belonging to the Companies in any bank of Canada listed in Schedule I or II to the *Bank Act (Canada)* or in any trust corporation or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any other depository approved by the Court, which deposits shall not be made in the name of the Liquidator individually, but shall be separate deposit accounts in the Liquidator's name as Liquidator of the Companies;

(c) carry on the business of the Companies so far as may be required as beneficial for the winding up of the Companies;

(d) sell any of the Property by public auction or private sale or, where applicable, through a stock exchange, and receive payment of the purchase price either in cash or otherwise;

(e) enter into one or more agreements for the transfer of the Companies' client accounts to other investment dealers on such terms as the Liquidator may in its discretion deem appropriate;

(f) take such steps with respect to accounts of deferred customers (as that term is defined in the *Bankruptcy and Insolvency Act* (the "**BIA**")) as the Liquidator may in its discretion deem appropriate;

(g) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Liquidator's powers and duties, including engaging the services of a broker to effect the sale of securities held by the Companies;

(h) do all acts and execute, in the name and on behalf of the Companies, all documents, and for that purpose use the seal of the Companies, if any;

(i) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Companies;

(j) make such compromise or other arrangement as the Liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he, she or it has a Claim whereby the Companies may be rendered liable;

(k) compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the Companies and any contributory, alleged contributory or other debtor or person who may be liable to the Companies and all questions in any way relating to or affecting the Property, or the winding up of the Companies, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the Liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof;

(l) disclaim any leases entered into by the Companies;

(m) cause to be filed with the appropriate governmental authority all tax returns required to be filed by the Companies, their subsidiaries and, if necessary, any trusts or special purpose entities for which the Companies continue to have responsibility;

(n) remit all taxes required to be remitted by the Companies in accordance with all applicable statutes;

(o) obtain any all applicable clearance certificates from governmental authorities;

(p) cause to be filed with the appropriate governmental authority all financial statements and reports required to be filed by the Companies;

(q) establish and implement a claims process in respect of any or all of the Companies;

(r) in respect of each of the Companies, pay or otherwise satisfy all claims from the Property thereof if there are sufficient funds to do so, and after satisfying all such claims, distribute the remaining Property or proceeds thereof (if any) rateably among the registered shareholders thereof according to their rights and interests;

(s) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the Companies;

(t) at any time after the affairs of any of the Companies have been fully wound up, make an application to the Court for an order dissolving any or all of the Companies;

(u) wind up or dissolve all wholly-owned subsidiaries of the Companies; and

(v) do and execute all such other things as are necessary for winding up the business and affairs of the Companies and distributing the Property.

10. **THIS COURT ORDERS** that the Liquidator shall provide any creditor or shareholder of the Companies with information provided by the Companies in response to reasonable requests for information made in writing by such creditor or shareholder addressed to the Liquidator or its legal counsel. The Liquidator shall not have any responsibility or liability with respect to the

information disseminated by it pursuant to this paragraph. In the case of information that the Liquidator has been advised by the Companies is confidential or otherwise material, non-public information, the Liquidator shall not provide such information to creditors or shareholders unless otherwise directed by this Court, or on such terms as the Liquidator may agree.

11. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Liquidator under the OBCA and the CBCA, the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Liquidator by the OBCA or any applicable legislation.

12. **THIS COURT ORDERS** that the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements incurred both before and after the making of this Order, in each case at their standard rates and charges, that the Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Property, as security for such fees and disbursements, and that the Administration Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person.

13. **THIS COURT ORDERS** that the Liquidator and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

14. **THIS COURT ORDERS** that prior to the passing of their accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

15. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or

perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

16. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA or otherwise; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Companies of any Agreement to which it is a party;

(b) none of the chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and

(c) the payments made by the Companies pursuant to this Order and the granting of the Administration Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable, reviewable, void or voidable transactions under any applicable law.

FUNDING OF THE LIQUIDATION

17. **THIS COURT ORDERS** that the Liquidator be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may

arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Administration Charge.

18. **THIS COURT ORDERS** that neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.

19. THIS COURT ORDERS that the Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Liquidator's Certificates**") for any amount borrowed by it pursuant to this Order.

20. THIS COURT ORDERS that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Liquidator's Certificates.

EMPLOYEES

21. **THIS COURT ORDERS** that all employees of the Companies shall be deemed terminated as of the date of this Order. The Liquidator shall not be liable for any employee-related liabilities other than such amounts as the Liquidator may specifically agree in writing to pay.

PIPEDA

22. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to

whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Liquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

SERVICE AND NOTICE

23. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.ey.com/ca/pacesecurities.

24. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to interested parties at their respective addresses as last shown on the records of the Companies and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

25. **THIS COURT ORDERS** that Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties under this Order.

26. **THIS COURT ORDERS** that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Companies.

27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Liquidator and its respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Order.

28. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

29. **THIS COURT ORDERS** that any interested party (including the Liquidator) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

30. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Time on the date of this Order.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 15 2020

PER / PAR:

Doc#4760501v5

SCHEDULE "A"

LIQUIDATOR'S CERTIFICATE

CERTIFICATE NO. ______________

AMOUNT $______________________

1. THIS IS TO CERTIFY that Ernst & Young Inc., the liquidator (the "**Liquidator**") of the assets, undertakings and properties of by Pace Securities Corp., Pace Financial Limited and Pace General Partner Limited (collectively, the "**Companies**"), including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 13th day of May, 2020 (the "**Order**") made in an action having Court file number __-CL-_______, has received as such Liquidator from the holder of this certificate (the "**Lender**") the principal sum of $___________, being part of the total principal sum of $___________ which the Liquidator is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _______ day of each month] after the date hereof at a notional rate per annum equal to the rate of ______ per cent above the prime commercial lending rate of Bank of _________ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Liquidator to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the

Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____________, 20__.

ERNST & YOUNG INC., solely in its capacity as Liquidator of the Property, and not in its personal capacity

Per: ______________________________

Name:

Title:

IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, AND PACE GENERAL PARTNER LIMITED .

Court File No. CV-20-641059-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

WINDING-UP ORDER

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Doc#4760501v5

Appendix B

IIROC OCRCVM
Investment Industry Regulatory Organization of Canada
Organisme canadien de réglementation du commerce des valeurs mobilières

ISSUED
IIROC
National Hearing Coordinator

JUN 16 2020

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

JOSEPH ANTHONY THOMSON AND GERALD DOUGLAS MCRAE

NOTICE OF HEARING

An initial appearance ("Initial Appearance") will be held before a hearing panel ("Hearing Panel") of the Investment Industry Regulatory Organization of Canada ("IIROC") pursuant to Sections 8203 and 8205 of the Consolidated Enforcement, Examination and Approval Rules of IIROC in this matter. The purpose of the Initial Appearance is to schedule a hearing ("Hearing").

The Initial Appearance will be held on by way of teleconference August 17, 2020 at 10:00 a.m.

The Respondents must serve a Response ("Response") to this Notice of Hearing and the Statement of Allegations dated June 16, 2020 ("Statement of Allegations") in accordance with Section 8415 within 30 days from the effective date of service of this Notice of Hearing.

If the Respondents do not file a Response in accordance with Section 8415(1), the Initial Appearance may be immediately converted to a Hearing.

If the Respondents file a Response in accordance with Section 8415(1), the Initial Appearance will be immediately followed by an initial prehearing conference. In preparation for the prehearing conference, the Respondents must serve and file a prehearing conference form in accordance with Section 8416(5).

The purpose of the Hearing will be to determine whether the Respondents have committed the contraventions that are alleged by the staff of IIROC ("Staff"). The alleged contraventions are contained in the Statement of Allegations.

Pursuant to Section 8409, the Hearing will be conducted as an:

- [x] Oral Hearing
- [ ] Electronic Hearing
- [ ] Written Hearing

The Initial Appearance, the Hearing and all related proceedings will be subject to the Rules of Practice and Procedure as set out in Section 8400.

Pursuant to the Rules of Practice and Procedure, the Respondents are entitled to attend the Hearing and to be heard, to be represented by counsel or by an agent, to call, examine and cross-examine witnesses, and to make submissions to the Hearing Panel at the Hearing.

If the Respondents fail to serve a Response at the Hearing the Hearing Panel may, pursuant to Section 8415(4):

(a) proceed with the hearing as set out in this Notice of Hearing, without further notice to the Respondents;

(b) accept as proven the facts and contraventions set out by Staff in the Statement of Allegations; and

(c) order sanctions and costs against the Respondents pursuant to Sections 8210 and 8214.

If the Hearing Panel concludes that the Respondents did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Sections 8210, impose any one or more of the following sanctions:

(a) a reprimand;

(b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;

(c) a fine not exceeding the greater of:

(i) $5,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention.

(d) suspension of the person's approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions;

(e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;

(f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;

(g) revocation of approval;

(h) a permanent bar to approval in any capacity or to access to a Marketplace;

(i) permanent bar to employment in any capacity by a Regulated Person, and

(j) any sanction determined to be appropriate under the circumstances.

If the Hearing Panel concludes that the Respondents did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214.

DATED this 16 day of June, 2020.

NATIONAL HEARING COORDINATOR
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9

IIROC OCRCVM
Investment Industry Regulatory Organization of Canada
Organisme canadien de réglementation du commerce des valeurs mobilières

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

JOSEPH ANTHONY THOMSON AND GERALD DOUGLAS MCRAE

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated June 16, 2020, Enforcement Staff make the following allegations:

PART I – REQUIREMENTS CONTRAVENED

(i) Between June 2017 and June 2019, Joseph Anthony Thomson ("Thomson"), the Ultimate Designated Person (the "UDP") of PACE Securities Corp. ("PSC") failed to identify and address existing and potential material conflicts of interest in a fair equitable and transparent manner, and consistent with the best interests of PSC's clients, contrary to Dealer Member Rule 42.

(ii) Between June 2017 and June 2019, Thomson failed to ensure that investments in two proprietary products, Pace Financial Ltd. ("PFL") and First Hamilton Holdings Inc. ("FHHI"), for which he was the portfolio manager, were made in accordance with the objectives set out in the applicable Offering Memorandum, contrary to Consolidated Rule 1400.

(iii) Between June 2017 and June 2019, Thomson, as UDP, failed to supervise the activities of PSC to ensure compliance with IIROC requirements and failed to use due diligence to ensure that orders accepted and recommendations made were suitable for clients and within the bounds of good business practice, contrary to Dealer Member Rules 38.5(c), 1300.1(a), (o), (p), (q) and (s).

(iv) Between June 2017 and June 2019, McRae, as the Chief Compliance Officer (the "CCO") failed to monitor and assess compliance by PSC with the Dealer Member Rules and failed to adequately supervise Thomson's securities-related activities, contrary to Dealer Member Rule 38.7.

PART II – RELEVANT FACTS AND CONCLUSIONS

Overview

1. Between 2017 and 2019, PSC offered preferred shares of PFL and FHHI to its clients. Thomson was the CEO and UDP of PSC and held multiple roles with PFL and FHHI, which generated potential material conflicts of interest. While PSC and Thomson's relationships with PFL and FHHI were disclosed in the Offering Memoranda, Thomson did not take reasonable steps to identify the conflicts, failed to consider the implications of the conflicts or address them in a fair, equitable and transparent manner, and consistent with the best interests of PSC's clients, as required by Dealer Member Rule 42.

2. These failures led to Thomson:

    (i) approving the sale of PFL and FHHI, which he created and managed and from which PSC obtained fees, to PSC clients without evaluating the potential conflicts of interest that could arise;

    (ii) executing Management Agreements, including fee arrangements, between PSC and PFL on behalf of both parties and amending these to the detriment of PSC clients;

(iii) withdrawing funds from PFL's accounts in excess of those disclosed in the Offering Memorandum;

(iv) failing to disclose that he received additional payments from FHHI in excess of those disclosed in the Offering Memoranda; and

(v) investing FHHI funds in his own company.

3. In addition, as the portfolio manager of the underlying investments of PFL and FHHI, Thomson failed to ensure that the investments were made in accordance with the objectives set out in the respective Offering Memoranda.

4. PFL and FHHI were high-risk investments. Thomson failed to ensure that the sale of PFL and FHHI to certain PSC clients was suitable and matched the risk tolerances and objectives set out in the clients' account documentation.

5. McRae, as PACE's CCO, failed to monitor and assess compliance by PSC, Thomson and other individuals acting on PSC's behalf, with respect to the sale of PFL and FHHI to PSC's clients and failed to adequately supervise Thomson's activities related to PFL and FHHI, as described in greater detail below.

Background

6. PSC has been a Dealer Member since June 2013 and was a wholly owned subsidiary of PACE Savings & Credit Union Limited ("PACE Credit Union").

7. Thomson founded PSC and has always been its UDP and Chief Executive Officer (CEO). Thomson was also the Chief Financial Officer (CFO) of PSC from June 2013 until July 2019. Thomson was approved in the IIROC category "Registered Representative - Portfolio

Manager" from May 2015 to May 2020. As described below, Thomson also formed and controlled PFL and FHHI.

8. McRae was the CCO of PSC since 2013. McRae was responsible for overall regulatory compliance at PSC, including ensuring adequate policies and procedures, daily and monthly trade reviews, approval of new accounts, options supervision, and the supervision of managed accounts.

9. In July 2018, IIROC Enforcement opened an investigation on the basis of a referral from IIROC Debt Market Surveillance.

10. In May 2019, IIROC Business Conduct Compliance raised concerns with PSC about the firm's governance and ability to comply with certain IIROC requirements. Shortly thereafter, PSC undertook to cease distributing FHHI to clients.

11. On May 14, 2020, PSC and PFL, along with two related companies, made an application to the Ontario Superior Court of Justice, and were granted, orders winding up the companies pursuant to the Business Corporations Act (Ontario) (OBCA) and the Canada Business Corporations Act (CBCA). Thomson and McRae, and all other employees, were terminated from PSC as a result of the order.

12. On May 21, 2020, FHHI made a similar application and was granted an order winding up the company pursuant to the OBCA and CBCA.

13. On May 21, 2020, PSC's membership in IIROC was suspended as a result of its winding up.

The Issuers

(i) PFL

14. By Confidential Offering Memorandum (the "PFL OM") dated June 27, 2017, PFL offered Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares (the "PFL Preference Shares") as an exempt distribution without a prospectus. PFL had no capital other than the proceeds of sale from the PFL Preference Shares.

15. PFL was a wholly owned indirect subsidiary of PSC and, at the time, Thomson was the sole officer and director of PFL.

16. PFL's business plan was to invest in debt instruments. The PFL OM stated that, among other things, PFL would invest in Canadian and US debt instruments with at least 50% of the portfolio rated "B" or better.

17. The PFL OM did not disclose the potential use of leverage or the potential use of options.

18. The PFL Preference Shares were offered at $10 each (subsequently there was a 2 for 1 split) and had a fixed term of 5 ½ years, with limited liquidity provisions. The PFL Preference Shares paid base dividends of 5% with an additional 2% bonus dividend payable at the discretion of PFL depending on performance. PFL paid a commission of 3% for sales of PFL Preference Shares that were deducted from the proceeds of the offering.

19. The PFL Preference Shares were redeemable in December 2022.

20. The PFL OM described an investment in the PFL Preference Shares as "highly speculative" and suitable only for investors "who can afford a total loss of their investment". The PFL OM also noted that PFL's business "involves a high degree of risk, which a combination of experience, knowledge and careful evaluation may not be able to overcome."

21. As per the PFL OM, PFL appointed PSC as the investment manager (the "Manager") to manage the PFL investment portfolio. Thomson was the portfolio manager in charge of

the PFL investments and made all investment decisions in the PFL account. As Manager, PSC became entitled to asset management fees and performance fees.

22. PSC sold approximately $16.3 million of PFL Preference Shares, including $10.7 million to PSC clients. PFL has not issued any additional PFL Preference Shares since May 2018.

23. In November 2019, PSC reduced the price of the PFL Preference Shares shown on client statements to $4.22 following a third-party valuation. In April 2020, the market price of the PFL Preference Shares was marked at $1.62.

(ii) FHHI

24. On February 2, 2018, Thomson incorporated FHHI. Thomson was a director of FHHI, its CEO, and its majority owner.

25. By Confidential Offering Memorandum dated March 19, 2018, FHHI offered Series A 7% Cumulative Non-voting Preference Shares (the "FHHI 7% Preference Shares") as an exempt distribution without a prospectus.

26. By Confidential Offering Memorandum dated April 30, 2018, FHHI offered 5% Cumulative Redeemable Retractable Non-voting Preference Shares (the "FHHI 5% Preference Shares") as an exempt distribution without a prospectus.

27. The Offering Memoranda (the "FHHI OMs") for both the FHHI 7% Preference Shares and the FHHI 5% Preference Shares (collectively, the "FHHI Preference Shares") were substantially similar.

28. FHHI's founding capital was $10,001 and its only other assets were the proceeds of sale from the FHHI Preference Shares.

29. FHHI’s primary business plan was to invest in debt instruments and, as profits were earned, and taxes and dividends paid, net retained earnings could be used for equity investments.

30. The FHHI OMs stated that, among other things, FHHI would invest in Canadian and US debt instruments with a weighted average rating of “B” or better.

31. Unlike the PFL OM, the FHHI OMs specifically disclosed that leverage could be used. The FHHI OMs did not disclose the potential use of options by FHHI, other than for hedging purposes.

32. The FHHI 7% Preference Shares OM provided for the possibility that they would be listed on a Canadian stock exchange by December 2020. However, if the FHHI 7% Preference Shares were not listed by December 2020, they became redeemable in December 2023.

33. The FHHI 5% Preference Shares were for a fixed term of 5 and 3/4 years and redeemable in December 2023.

34. The FHHI Preference Shares were offered as part of a unit priced at $10 per unit, with $9.50 allocated to each FHHI Preference Share and $0.50 allocated to a warrant. FHHI 7% Preference Shares paid base dividends of 7% and FHHI 5% Preference Shares paid base dividends of 5%. FHHI paid a commission of 10% for sales of the FHHI Preference Shares that was deducted from the proceeds of the offering.

35. The FHHI OMs described the investment in the FHHI Preference Shares as “a risky investment”, “highly speculative” and suitable only for investors “who can afford a total loss of their investment”. The FHHI OMs also noted that FHHI’s business “involves a high degree of risk, which a combination of experience, knowledge and careful evaluation may not be able to overcome.”

36. As per the FHHI OM, FHHI appointed PSC as Manager to manage the FHHI investment portfolio. Thomson was the portfolio manager in charge of the FHHI investments and made all investment decisions in the FHHI account. As Manager, PSC became entitled to asset management fees and performance fees, in addition to selling commissions.

37. As of June 2019, FHHI had sold approximately $29.8 million of FHHI Preference Shares, including $12.8 million to PSC clients. FHHI has not issued any additional FHHI Preference Shares since July 2019.

38. In November 2019, PSC reduced the price of the FHHI Preference Shares shown on client statements to $8.17 (Class A) and $7.49 (Class B). In April 2020, the market price of FHHI Preference Shares was marked at $0.84.

Conflicts of Interest

39. At the time PFL was established and its Preference Shares offered for sale to PSC clients, Thomson was its sole officer and director, the President and CEO and a promoter. PFL was, indirectly, a wholly owned subsidiary of PSC.

40. At the time FHHI was established and its Preference Shares offered for sale to PSC clients, Thomson was an officer and director, the President and CEO and a promoter. He was also the majority owner of FHHI common shares.

41. Thomson was also the President, CEO, UDP, and director of PSC, which was the Manager of the PFL and FHHI accounts, and he was the portfolio manager for the accounts. Thomson made all investment decisions in the PFL and FHHI accounts held at PSC.

42. PSC and Thomson's multiple roles in PFL and FHHI were disclosed in the Offering Memoranda. However, Thomson had a responsibility to take reasonable steps to identify

all potential material conflicts of interest and to ensure, whether disclosed or not, that conflicts of interest were addressed in a fair, equitable and transparent manner, and consistent with the best interests of PSC's clients.

(i) Approval of PFL and FHHI

43. Thomson and McRae approved the sale of PFL and FHHI Preference Shares to PSC clients without evaluating the potential conflicts of interest that could arise.

44. Thomson and McRae were the only members of PSC's New Product Review Committee (the "NPRC"). They met informally to consider the sale of PFL and FHHI to PSC clients. There is no documentation of any meetings regarding the consideration or approval of either PFL or FHHI for sale to clients.

45. As a member of the NPRC, Thomson was in a conflict of interest when he reviewed the products that he created, managed, and from which PSC obtained fees. Thomson did not recuse himself from consideration of these related issuers or take any steps to address the conflict of interest. PSC lacked sufficient policies and procedures to control conflicts of interest. Thomson and McRae were required to ensure that PSC had sufficient policies in place to supervise and monitor the approval of related issuers for sale to clients.

(ii) PFL Management Fees

46. Thomson's role at PFL created a potential material conflict of interest in that it was in PSC and Thomson's interests to generate fees from PFL, whereas payment of those fees was contrary to the interests of PFL and its preference shareholders.

47. The PFL OM provided for PFL to enter a Management Agreement with PSC as the Manager. The PFL OM stated that PFL expected to pay two types of fees to PSC:

a. asset management fees of 0.25% per month or 3.0% per annum; and
b. performance fees of 50% of profits earned.

48. Both the asset management and performance management fees were to be reduced to the extent necessary, or waived, “in the event that [PFL] has a deficit (i.e. no profits or inadequate profits to provide for base dividends on the Preference Shares.” At no point did PFL report a profit on its annual audited financial statements.

49. PSC entered into three Management Agreements with PFL dated August 20, 2017, December 28, 2017, and March 16, 2018, respectively. Thomson signed all three Management Agreements on behalf of both PSC and PFL, determining the fees that PFL would pay to PSC. PSC was entitled to withdraw fees by debiting PFL’s account directly.

50. The first Management Agreement dated August 20, 2017 provided for fees similar to those outlined in the PFL OM. Specifically, the August 20, 2017 Management Agreement stated that “[t]he Management Fee will be based on the Net Asset Value of the account on each Valuation Day (last business day of the month)”. However, unlike as disclosed the in PFL OM, the first Management Agreement did not provide for either the management fee or performance fee to be reduced to the extent necessary for PFL to meet its dividend payment requirements.

51. The subsequent Management Agreements provided for fees that were not disclosed in the PFL OM, as follows:

Source	**Asset Management Fee**	**Performance Fee**
Offering Memorandum dated June 27, 2017	3.0% per annum (0.25% per month)	50% of profits earned, reduced if necessary to permit PFL to pay dividend obligations

Management Agreement August 20, 2017	3% of the value of the portfolio	50% of the increase in Net Asset Value of the account
Management Agreement December 28, 2017	$60,000 per month	Net profit in excess of the amount required to be accrued for annual payment of the base dividend of 5% and the discretionary dividend of 2%
Management Agreement March 16, 2018	$70,000 per month	30% of the net profit in excess of the amount required to be accrued for annual payment of the base dividend of 5% and the discretionary dividend of 2%

52. The information provided to PFL Preference Shareholders about the fees was set out in the PFL OM. The Management Agreements were not provided to PSC clients who purchased PFL Preference Shares and no notice of the above changes to the fees were provided to PSC clients prior to the changes. The revised fees were also not disclosed to PSC clients who purchased PFL Preference Shares after the changes had been made, even though these amounts were inconsistent with the information in the PFL OM.

53. Changes to the fees were referenced in notes contained in the PFL financial statements, which were issued in November 2019. This did not constitute prominent, specific, clear and meaningful disclosure of the conflict to PSC clients.

54. These changes had a significant impact on the fees paid by PFL (and by extension PSC clients) to PSC. In many cases, Thomson disregarded the PFL OM or Management Agreements and Thomson permitted PSC to charge fees in excess of the amounts that should have been owed.

55. Further, the various Management Agreements also increased the potential performance fees that could be paid to PSC.

56. In total, between September 2017 and May 2019, PSC charged and was paid fees of $2,420,983. These fees exceeded the fees disclosed in the PFL OM and reduced the assets of PFL, contrary to the interests of the PFL Preference Shareholders.

(iii) Withdrawals of Funds from PFL

57. In addition to the "management fees" and "additional fees" withdrawals from the PFL account, PSC withdrew or transferred further funds from PFL's account which were inconsistent with the terms of the PFL OM. This included the payment of a $150,000 dividend to the sole common shareholder PACE General Partner Limited, a wholly owned subsidiary of PSC. These withdrawals were to the direct benefit of PSC and reduced the assets of PFL, contrary to the interests of the PFL Preference Shareholders.

(iv) Additional Undisclosed Payments from FHHI to Thomson

58. The FHHI OMs stated that FHHI intended to pay directors', including Thomson, an annual fee of $10,000 ($15,000 for the chair). No additional fees or payments to directors or officers were disclosed. Beginning in May 2018, FHHI provided monthly draws of $10,000 to Thomson. As of June 2019, Thomson had received draws of approximately $330,000 from FHHI. These draws were to the direct benefit of Thomson and reduced the assets of FHHI, contrary to the interests of FHHI Preference Shareholders.

59. These additional payments created a conflict of interest between Thomson and PSC clients who purchased FHHI Preference Shares, and needed to be disclosed or otherwise addressed by Thomson.

(v) Investing FHHI funds in his own company

60. On November 27, 2018, Thomson caused FHHI to purchase 100,000 shares of First Hamilton Capital 2 LP ("FH Cap 2LP") at $10 each for a total investment of $1 million.

Thomson was the sole director and officer of the corporation he established to be the general partner for FH Cap 2LP and was therefore its directing mind. PSC was the Manager of FH Cap 2LP and was entitled to a monthly management fee.

61. When Thomson caused FHHI to invest $1 million in FH Cap 2LP he was in a conflict of interest that he failed to identify or address.

Failure to invest in accordance with the provisions of the Offering Memoranda

62. The PSC Management Agreements with PFL and FHHI incorporated the Offering Memoranda as the source of account objectives in lieu of preparing separate managed account agreements. Accordingly, all investments made by Thomson in each account were required to be in accordance with the provisions of the PFL and FFHI Offering Memoranda.

(i) Options

63. The PFL OM did not disclose the potential use of options in the portfolio. The FHHI OMs did disclose the potential use of options for only a limited purpose, namely for currency hedging. Nonetheless, as the portfolio manager of both the PFL and FHHI accounts, Thomson invested in options in both portfolios.

64. Between June 22, 2017 and May 31, 2018, PFL incurred losses on option trading of $422,600 and further losses on option trading of $253,223 between May 31, 2018 and May 31, 2019. Between February 21, 2018 and February 28, 2019, FHHI incurred losses on option trading of $191,900.

65. The option positions in both the PFL and FHHI accounts were contrary to the disclosures contained in the Offering Memoranda. Further, the use of options in both PFL and FHHI

increased the potential risks associated with an investment in the PFL and FHHI Preference Shares.

(ii) Leverage

66. The PFL OM did not disclose the potential use of leverage. Nonetheless, Thomson used extensive leverage in the PFL account. At times, the margin borrowing in the PFL account was approximately 2.5 times the equity in the account. This use of leverage was contrary to the disclosure contained in the PFL OM.

(iii) Equity Investments

67. Section 2.3.2 of the FHHI OMs stated: "As profits are earned, taxes paid and dividends paid on the Preference Shares, net retained earnings held by the Issuer may be invested in additional Eligible Debt Instruments or used to acquire Equity Investments that fit within the Issuer's investment strategy or may be paid as dividends on the Class A Restricted voting Shares and Class B Voting Shares issued and outstanding at the applicable time, or a combination of the foregoing."

68. As set out above, on November 27, 2018, Thomson caused FHHI to invest $1 million in FH Cap 2LP. FH Cap 2 LP was a limited partnership established to invest in securities. Its investment objectives were to "invest in debt and equity securities and options of non-investment grade and investment grade rated issuers, both publicly-traded and privately held" ..."by using the following investment strategies: High Yield Bond and Loan Trading, Long/Short Positions, Short Selling, Pairs Trading, Inter-Capital Arbitrage, Convertible Arbitrage and Volatility Arbitrage."

69. In addition, in or around April 2019, Thomson caused FHHI to purchase 84,280 common shares of Grand River Commerce Inc. ("Grand River"), a Michigan based bank at a total cost of $624,098.51USD.

70. At the time of the investment in FH Cap 2LP and Grand River, FHHI had no retained earnings. Financial statements for the year-end February 28, 2019 showed that FHHI had incurred a loss of $967,863 and had a shareholder deficiency of $957,692. Accordingly, the investments in FH Cap 2LP and Grand River were not made with retained earnings and were in contravention of the terms of the FHHI OMs.

Suitability

71. PFL and FHHI were high-risk investments. The Offering Memoranda referred to the Preference Shares as “highly speculative”, involving a “high degree of risk”, and suitable for investors “who can afford a total loss of their investment”.

72. The PFL OM stated that at least half of its portfolio would be invested in debt instruments rated with a “B” rating or better. Similarly, the FHHI OMs stated that the weighted average of its portfolio would be invested in debt instruments rated with a “B” rating or better.

73. The rating refers to rating scales used by industry-accepted bond rating agencies such as DBRS, Moody’s, S&P, and Bloomberg Composite Index. Each agency rates debt instruments along a spectrum of risk based primarily on the obligor’s capacity to meet its financial commitments.

74. The rating agencies rate “B” grade investments as highly speculative. Debt instruments rated BB are considered to be speculative and instruments rated CCC are considered to be substantially risky to extremely speculative. For example, S&P describes the risk associated with debt instruments rated BB, B, CCC, and CC as follows:

> “Obligors rated ‘BB’, “B”, “CCC’, and ‘CC’ are regarded as significant speculative characteristics. “BB” indicates the least degree of speculation and ‘CC’ the highest. While such obligors will likely have some quality and protective characteristics, these may be outweighed by large uncertainties or major exposure to adverse conditions.”

75. The FHHI OMs indicated that as FHHI's retained earnings grew, it could make equity investments. There were no limitations on the equity investments in terms of sector, geographic location, or public and private. The open potential for equity investments increased the potential risks associated with an investment in the FHHI Preference Shares.

76. In addition, both the PFL and FHHI portfolios were highly leveraged. The use of leverage increased the potential risks associated with an investment in the PFL and FHHI Preference Shares.

77. Both the PFL and FHHI portfolios also used options, which again increased the potential risks associated with an investment in the Preference Shares.

78. Thomson and McRae considered PFL and FHHI to be medium-risk investments, even though they were aware of the holdings, use of leverage, the use of options and the clear description of the speculative nature of the investment made in the Offering Memoranda.

79. PSC advisors sold PFL and FHHI to a broad range of clients, many of whom had no, or inadequate, tolerance for risk as well as limited investment knowledge.

80. Of the approximately $10.7 million of PFL Preference Shares sold to PSC clients, $5.2 million was sold to clients that had no indication of high-risk tolerance on their account documentation. Of these, five clients whose risk tolerance was documented as 100% low purchased 16,767 PFL Preference Shares in their accounts, for total proceeds of $167,670.

81. Of the approximately $12.8 million of FHHI Preference Shares sold to PSC clients, $7 million was sold to clients that had no indication of high-risk tolerance on their account documentation. Of these, three clients whose risk tolerance was documented as 100% low purchased 15,325 FHHI Preference Shares in their accounts, for total proceeds of $153,250.

82. Thomson and McRae did not adequately supervise whether the purchases of PFL and FHHI were suitable for PSC clients, in particular:

(a) they failed to appreciate the risks and erroneously considered PFL and FHHI to be medium-risk products when they were high-risk; and

(b) they failed to adequately consider whether purchases of PFL and FHHI were suitable for clients, having regards to their personal circumstances, stated risk tolerance, investment objectives or financial circumstances.

McRae's Failure to Supervise

83. McRae was responsible for the supervision of managed accounts at PSC, including the accounts of PFL and FHHI, which were managed by Thomson. He was also responsible for conducting suitability reviews of all client accounts.

84. As noted above, the PSC Management Agreements with PFL and FHHI incorporated the Offering Memoranda as the source of account objectives. Accordingly, McRae was required to ensure that Thomson managed the PFL and FHHI portfolios in accordance with the Offering Memoranda.

85. The PFL OM did not disclose the use of leverage or options. McRae signed leverage and options agreements for PFL and was aware it used those strategies, yet he never raised the issue or evidenced any supervision concerning whether their use was consistent with the PFL OM.

86. The FHHI OMs did not disclose the use of options, other than for hedging purposes, yet McRae signed options agreements for FHHI and was aware of options use in the account. He never raised the issue or evidenced any supervision concerning whether options use was consistent with the FHHI OMs.

87. Thomson's multiple roles with PFL and FHHI called for robust supervision of his management of the portfolios of PFL and FHHI, which in turn held the funds of numerous investors with no high-risk tolerance, many of whom were seniors with limited investment knowledge.

88. Similarly, McRae was aware or ought to have been aware of the disclosure contained in the PFL and FFHI OMs which described the Preference Shares as "highly speculative", involving a "high degree of risk", and suitable for investors "who can afford a total loss of their investment". Nonetheless, he did not question the purchase of these securities by clients with limited tolerance for risk.

DATED at Toronto, Ontario this 16th day of June, 2020.

Appendix C

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File 80003

July 8, 2020

VIA EMAIL

George Benchetrit
Chaitons LLP
George@chaitons.com

Mervin Abramovitz
Blaney McMurtry LLP
MAbramowitz@blaney.com

Dear Sirs:

Re: In the matter of the winding up of PACE Securities Corp. ("PACE Securities") and PACE Financial Limited ("PACE Financial") and others (collectively, the "PACE Entities"), and in the matter of the winding up of First Hamilton Holdings Inc.("FHH") and others (collectively, the "FHH Entities", and, together with the PACE Entities, the "Debtor Companies").

We are writing to confirm that Paliare Roland Rosenberg Rothstein LLP ("**Paliare Roland**") has been formally retained by Surinder Sawrup, Aman Sawrup and Saira Ahmad (the "**Clients**") and has also been in contact with other individuals, including Sheral Young, in connection with their purchase of PACE Financial Limited Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares, and equivalent securities of FHH, as well as FHH warrants (collectively, the "**Preference Shares**").

As you know, our Clients and other similarly situated persons holding Preference Shares (the "**Investor Claimants**") have suffered significant actionable losses in respect of their investments. By way of example, we have summarized the experience of the individuals referred to above in Appendix A to this letter. In light of these experiences, our Clients are contemplating claims against PACE Securities, PACE Financial, FHH, and PACE Credit Union, various of their respective directors, officers and employees, and possibly others (collectively, the "**Defendants**"). As a starting point, however, our Clients would like to see Paliare Roland formally appointed as representative counsel for the Investor Claimants in the Debtor Companies' liquidation. They believe that is an important first step for at least two reasons.

First, our Clients perceive a considerable amount of confusion among the Investor Claimants. These are commercially unsophisticated individuals who find themselves in their current situation because they were misled by persons in authority. They are presently receiving information from multiple sources, including other Investor Claimants, class action law firms, representatives of PACE Credit Union and Laurentian Bank, and through the media, but many of them do not understand what they are being told, whether the individuals with whom they are speaking are acting in their best interest, or how they should proceed. For example, we understand that representatives of PACE Credit Union are reaching out to certain Investor Claimants to gather and/or convey information, but the communications appear to our clients to be occurring on *ad hoc* basis, and Investor Claimants are understandably distrustful. As a result, our Clients believe that the appointment of experienced counsel to gather and act as a conduit of information to and from the Investor Claimants, and to advocate their interests and ensure fair and consistent treatment among them is of paramount importance.

Second, many of the Investor Claimants are over the age of 65 and were relying on their investments to fund their retirements. These individuals have little or no ability to mitigate their losses and need money now. As a result, the usual civil litigation path, which typically involves a starburst of claims and years of delay, is of little use to them. Our Clients hope that establishing representation in the liquidation proceedings will allow those proceedings to become a forum to explore the possibility of a collaborative and creative solution among the willing, similar to Lac-Megantic and other cases.

In the spirit of collaboration, we would like to discuss our Clients' objectives with you at your earliest opportunity (and, if helpful, with counsel for other stakeholders). In order to help focus that discussion, we are enclosing a draft appointment order for your consideration. This draft remains subject to ongoing internal review and review by our clients, and we welcome your comments.

While recognizing that court proceedings are inherently adversarial, and that the court appointed liquidators serve a multiplicity of interests, our preference is to work with both liquidators to limit the hardship and damages suffered by the Investor Claimants as much as possible.

We look forward to speaking with you about the foregoing at your earliest convenience.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Massimo (Max) Starnino
MS:DG

c: Ken Rosenberg
Odette Soriano
Danielle Glatt
Clients

Appendix D

Paliare Roland is an experienced and qualified firm with expertise representing large numbers of stakeholders who are often commercially unsophisticated and vulnerable in a wide variety of insolvency and/or class proceedings. Engagements of note include, among others:

- **Sino Forest Corporation**. Paliare Roland was retained as insolvency counsel to the class representatives in a $2B shareholder class action when the reporting issuer (Sino Forest) commenced restructuring proceedings under the Companies' Creditors Arrangement Act in Ontario.

- **Lac Megantic (Montreal Maine & Atlantic Railway (Canada) Co.)**. Paliare Roland was retained as insolvency counsel to the representatives for the townspeople of Lac Megantic when the railway company at the centre of the one of the worst railway disasters in Canadian history commenced restructuring proceedings in Quebec, shortly after one of its trains transporting petroleum products derailed while rolling through the town.

- **Poseidon Concepts Corporation**. Paliare Roland was insolvency counsel to the representatives for shareholders in a $600MM shareholder class action when the reporting issuer (Poseidon Concepts Corporation) commenced restructuring proceedings in Alberta.

- **U.S. Steel Canada and Essar Steel Algoma Inc.** Paliare Roland was retained by the United Steelworkers International Union to represent the interests of thousands of workers and retirees at Stelco's integrated steel mills in Hamilton and Port Dover, and at Algoma's integrated steel mill in Sault Ste. Marie;

- **Bank of Montreal Registered Account Foreign Exchange Class Action.** Paliare Roland represents a class of approximately 200,000 registered account holders and has obtained findings on summary judgment that BMO Nesbitt Burns Inc., BMO InvestorLine Inc., and BMO Trust Company committed breach of trust and breach of fiduciary duty by systematically imposing an undisclosed mark-up on the exchange rate they charged on currency conversions in the registered accounts, taking approximately $102.9 million in undisclosed fees. The Court has ordered the BMO companies to disgorge the profits generated on these fees, and has directed a reference to determine the amount of a final judgment;

- **Day v. Canada (Attorney General).** Paliare Roland, along with another firm, was recently selected by the Federal Court of Canada to represent the interests of Métis and Non-Status Indians affected by the "Sixties Scoop", a federal program whereby the children of Status Indians, Métis, and Non-Status Indians were taken from their parents and placed in non-indigenous foster homes or put up for adoption.