



CIRO · OCRI

Canadian Investment
Regulatory
Organization

Organisme canadien
de réglementation
des investissements

**IN THE MATTER OF
THE INVESTMENT DEALER AND PARTIALLY CONSOLIDATED RULES AND THE UNIVERSAL
MARKET INTEGRITY RULES
AND
CLARUS SECURITIES INC.**

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Canadian Investment Regulatory Organization (“CIRI”)¹ will issue a Notice of Motion to announce a settlement hearing pursuant to sections 8215 and 8428 of the Investment Dealer and Partially Consolidated Rules (the “Investment Dealer Rules”) to consider whether a hearing panel should accept this Settlement Agreement between Enforcement Staff and Clarus Securities Inc. (“Clarus” or the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Enforcement 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 July 26, 2017, and April 30, 2018 (the “Relevant Period”), Clarus failed to ensure that client orders entered through its firm were not part of a potential manipulative or deceptive method, act or practice, nor an attempt to create a false or misleading appearance of trading activity or interest in relation to trading in Liberty Health Sciences (“LHS”), a CSE-listed issuer.
5. The trading activity consisted of pre-arranged trades executed by Clarus with other Participants, that were being coordinated by, AD, who directed and controlled a group of related accounts (the “Related Accounts”). The pre-arranged trades were between Related Accounts held at Clarus and Related Accounts held at other Participants. Clarus also executed two intentional crosses that were potentially manipulative and deceptive for two Related Accounts held at Clarus.
6. Clarus knew that: (1) the four Related Accounts held at Clarus were all connected to AD and were in the name of his spouse or corporate entities associated with AD and named AD, his spouse and children as the beneficial owner(s), (2) AD had a key role in the formation and financing of LHS and directed significant positions in LHS at Clarus and other Participants, and (3) the trading instructions for the four Related Accounts at Clarus were given primarily by AD’s associate (the “Associate”) who worked for AD’s private equity firm, the Delavaco Group, and had trading authority on three of the Related Accounts, and that trading instructions for these four Related Accounts were also sometimes given by AD.
7. In the circumstances, Clarus failed to adequately supervise and monitor the trading by the Related Accounts held at Clarus and to act as a gatekeeper to help prevent and detect manipulative and deceptive activity, contrary to UMIR 7.1 and UMIR Policy 7.1. The trading described below ought to have prompted Clarus to question the bona fides of the trading being conducted by AD and his Associate.

The Respondent

8. Clarus is a Dealer Member and a Participant under UMIR. Clarus is based in Toronto and is primarily engaged in corporate finance activities and sales and trading for institutional accounts.

The Issuer

9. LHS, according to its press releases, "was an investor and operator in the medical cannabis market, capitalizing on new and existing opportunities in U.S. states where medical cannabis is legal." LHS was acquired by another CSE issuer in February 2021 in an all-share transaction valued at approximately \$C372 million.
10. On April 4, 2017, SecureCom Mobile Inc. ("SecureCom") announced an agreement to enter a business combination through a subsidiary with DFMMJ Investments Ltd. ("DFMMJ Ltd."), a private holding company incorporated in B.C. on March 20, 2017, and to carry on business as LHS.
11. As part of the business combination, Aphria Inc. ("Aphria"), a TSX-listed issuer, agreed to subscribe for 120,192,308 common shares of DFMMJ Investments Ltd. ("DFMMJ Ltd.") for gross proceeds of \$25 million.
12. SecureCom and DFMMJ Ltd. also announced the signing of an engagement letter with Clarus to act as agent for a private placement financing prior to the business combination of up to 168,269,231 subscription receipts of DFMMJ Ltd. at a price of \$0.208 per receipt for gross proceeds of \$35 million. These proceeds were to be used to fund the acquisition of Chestnut Hill Tree Farm LLC, a company with a licensed cannabis growing facility in Florida, by DFMMJ Investments LLC ("DFMMJ LLC"), a Florida company and wholly owned subsidiary of DFMMJ Ltd. DFMMJ LLC was founded and controlled by the Delavaco Group. The CEO and a Director of SecureCom also worked with the Delavaco Group.

13. On January 5, 2018, LHS announced that it had agreed to a \$15 million bought deal priced at \$2.10 per unit with Clarus as lead underwriter. Later that day, LHS announced that the bought deal had been increased to \$20 million. In connection with the offering, LHS stated that the Delavaco Group had been appointed as “a special advisor to the Company.” This bought deal was terminated through mutual agreement on or around January 31, 2018, as it had become clear that due to changes regarding companies in the cannabis sector in the U.S., no company such as LHS would be able to get a final prospectus receipted in Ontario.
14. After further changes in the U.S., where it became likely again that a prospectus could be receipted, on April 16, 2018, LHS announced a \$20 million bought deal priced at \$0.90 per unit with Clarus as lead underwriter. This deal closed on May 10, 2018.
15. Clarus, as a result of its role in transactions, and its business relationship and communications with AD, was aware of AD’s significant involvement with and his family’s shareholdings in LHS. Clarus also knew which parties held large positions in the shares in LHS as a result of its corporate finance activities and being the primary Participant for institutional trading in LHS.

The Trading Activity

16. Enforcement Staff investigated the trading activity by the Related Accounts between July 26, 2017, when LHS commenced trading on the CSE, and April 30, 2018.
17. During the Relevant Period, Clarus was the largest buyer and seller of LHS shares, with approximately 18.2% of the market share.
18. A summary of the trading activity is attached at Appendix A.

(i) Pre-Arranged Trades

19. Clarus executed 22 pre-arranged trades on behalf of the Related Accounts, mostly with Related Accounts held at three other Participants. Based on its market knowledge and experience, communications with, and trading instructions from, AD and his Associate, Clarus ought to have monitored and questioned whether these pre-arranged trades were consistent with a bona fide trading strategy or were potentially manipulative given the pattern of matching size, timing, and price.
20. For example, in certain instances pre-arranged trades of a significant size occurred on consecutive days for the Related Accounts at Clarus, which may have been indicative of potentially manipulative trading. Clarus should have asked questions about these pre-arranged trades to ascertain their purpose. By entering these pre-arranged trades without asking questions, Clarus failed to ensure that the trading was not part of a potentially manipulative or deceptive method, act or practice nor an attempt to create a false or misleading appearance of trading activity.
21. As can be seen now from information not visible to Clarus at the time, AD and his Associate were coordinating trades between the Related Accounts under their direction and control at Clarus and other Participants. Certain of these matched trades do not appear to have involved a change in beneficial ownership and may have created a false or misleading appearance of trading activity in LHS.
22. Clarus ought to have questioned whether these pre-arranged trades were occurring under normal market conditions with the buyer and the seller acting independently.

(ii) Intentional Crosses

23. On January 16, 2018, Clarus executed an intentional cross for 112,000 shares and on February 1, 2018, executed an intentional cross for 1.3 million shares between two of the Related Accounts (same account buying and same account selling in both trades). Clarus executed these intentional crosses knowing that the accounts

were under the direction and control of the same person and involved either AD or his Associate giving trade instructions. These trades were flagged by Clarus' compliance department, which concluded that there was a change of beneficial and economic ownership. However, Clarus should have asked further questions of the person placing the trades to ascertain their purpose to ensure that the trading was not part of a potentially manipulative or deceptive method, act or practice nor an attempt to create a false or misleading appearance of trading activity.

Additional Factors

24. The Related Accounts held at Clarus have not been active since July 6, 2020.
25. At the end of October 2017, a new CCO joined Clarus and was approved on November 16, 2017. The CCO implemented new trade supervision processes and procedures and updated Clarus' compliance handbook. This took place before the investigation by Enforcement Staff was commenced.
26. Clarus has no prior disciplinary history.
27. In agreeing to this settlement, Clarus has saved CIRO the time and expense of a hearing.

Conclusion

28. In performing its trading supervision obligations, a Participant must act as a gatekeeper to help prevent and detect potentially manipulative trading and must take steps to monitor the trading activity of any person who has multiple accounts, including accounts over which the person has direction or control.

PART IV – CONTRAVENTIONS

28. By engaging in the conduct described above, the Respondent committed the following contraventions of CISO requirements:
- (i) During the Relevant Period, Clarus Securities Inc. contravened UMIR 7.1 and UMIR Policy 7.1 in connection with trading for Liberty Health Sciences, a CSE-listed issuer.

PART V – TERMS OF SETTLEMENT

29. The Respondent agrees to the following sanctions and costs:
- (i) Fine in the amount of \$425,000; and
 - (ii) Costs in the amount of \$25,000.
30. If this Settlement Agreement is accepted by the hearing panel, the Respondent agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Enforcement Staff and the Respondent.

PART VI – STAFF COMMITMENT

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

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

33. This Settlement Agreement is conditional on acceptance by the hearing panel.
34. This Settlement Agreement shall be presented to a hearing panel at a settlement hearing in accordance with sections 8215 and 8428 of the Investment Dealer Rules, in addition to any other procedures that may be agreed upon between the parties.
35. Enforcement Staff and the Respondent agree that this Settlement Agreement will form all the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If the Respondent does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the hearing panel.
36. If the hearing panel accepts this Settlement Agreement, the Respondent agrees to waive all rights under the Rules of CIRO and any applicable legislation to any further hearing, appeal and review.
37. If the hearing panel rejects this Settlement Agreement, Enforcement Staff and the Respondent may enter into another settlement agreement or Enforcement Staff may proceed to a disciplinary hearing based on the same or related allegations.
38. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the hearing panel.
39. This Settlement Agreement will become available to the public upon its acceptance by the hearing panel and CIRO will post a copy of this Settlement Agreement on the CIRO website. CIRO will publish a notice and news release of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement and the hearing panel's written reasons for its decision to accept this Settlement Agreement.

40. If this Settlement Agreement is accepted, the Respondent agrees that neither they nor anyone on their behalf, will make a public statement inconsistent with this Settlement Agreement.
41. This Settlement Agreement is effective and binding upon the Respondent and Enforcement Staff as of the date of its acceptance by the hearing panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

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

DATED this “10” day of September, 2024.

“Clarus Securities Inc.”
Clarus Securities Inc.

“Joe Kelly”
Joe Kelly
Enforcement Counsel on behalf of
Enforcement Staff of the
Canadian Investment Regulatory
Organization

The Settlement Agreement is hereby accepted this “25” day of September, 2024 by the following Hearing panel:

Per: “Deborah Anshell”
Chair

Per: “Deborah Leckman”
Industry Member

Per: “Randee Pavalow”
Industry Member

¹ The Canadian Investment Regulatory Organization (“CIRO”) has adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and the rules and certain by-laws and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the rules and by-laws and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules.

Section 1105 (Transitional provision) of the Investment Dealer and Partially Consolidated Rules sets out CIRO’s continuing jurisdiction, including that CIRO shall continue the regulation of any person subject to the jurisdiction of the Investment Industry Regulatory Organization of Canada that was formerly conducted by the Investment Industry Regulatory Organization of Canada.

Appendix A – Trading in LHS

	Date	Time of Buy order	Time of Sell Order	Execution Time	Vol and Price of Orders	Buy Client (Firm)	Sell Client (Firm)
1	Aug 9, 2017	11:45:35.268	11:45:53.600	11:45:53.601	200,000 at \$0.99	Related Account 7 (Participant 1)	Related Account 2 (Clarus)
2	Aug 9, 2017	12:04:30.309	12:04:28.181	12:04:30.309	40,000 at \$0.99	Related Account 7 (Participant 1)	Related Account 2 (Clarus)
3	Sep 7, 2017	15:53:45.855	15:53:43.360	15:53:45.856	265,000 at \$0.83	Related Account 1 (Clarus)	Related Account 7, Related Account 11, Related Account 9 (Participant 1)
4	Sep 12, 2017	12:23:50.235	12:23:48.983	12:23:50.236	260,000 at \$0.79	Related Account 1 (Clarus)	Related Account 7, Related Account 11, Related Account 9 (Participant 1)
5	Oct 6, 2017	10:24:19.491	10:24:18.674	10:24:19.492	150,000 at \$1.03 (sell) 160,000 at \$1.03 (buy)	Related Account 1 (Clarus)	Related Account 9 And Related Account 6 (Participant 1)
6	Oct 11, 2017	12:59:11.892	12:59:10.666	12:59:11.894	340,000 at \$1.09	Related Account 1 (Clarus)	Related Account 9 (Participant 1)
7	Dec 6, 2017	10:12:45.629	10:12:46.369	10:12:46.371	242,700 at \$1.53	Related Account 2 (Clarus)	Related Account 10 (Participant 1)
8	Jan 2, 2018	10:58:52.483	10:58:49.568	10:58:52.483	200,000 at \$2.32	Related Account 2 (Clarus)	Client Account B (Participant 2)
9	Jan 10, 2018	15:27:21.996	15:27:22.886	15:27:22.886	480,000 at \$2.07	Related Account 7 (Participant 1)	Related Account 1 (Clarus)
10	Jan 16, 2018	10:04:31.983	10:04:58.689	10:04:58.691	240,000 at \$1.91	Related Account 1 (Clarus)	Related Account 5 (Participant 1)
11	Jan 16, 2018	Intentional Cross		11:30:44.430	112,000 at \$1.89	Related Account 1 (Clarus)	Related Account 2 (Clarus)
12	Jan 17, 2018	15:38:12.969	15:38:11.700	15:38:12.969	66,200 at \$1.75 (sell) 80,000 at \$1.75 (buy)	Related Account 2 (Clarus)	Related Account 5 (Participant 1)
13	Jan 18, 2018	09:41:33.566	09:41:34.553	09:41:34.553	660,000 at \$1.80	Related Account 3 (Clarus)	Related Account 10 (Participant 1)
14	Jan 19, 2018	09:30:37.438	09:30:44.542	09:30:44.542	400,000 at \$1.80	Related Account 3 (Clarus)	Related Account 10 (Participant 1)
15	Feb 1, 2018	Intentional Cross		10:27:51.966	1,300,000 at \$1.70	Related Account 1 (Clarus)	Related Account 2 (Clarus)
16	Feb 8, 2018	09:51:00.326	09:51:03.291	09:51:03.291	750,000 at \$1.45	Related Account 1 (Clarus)	Related Account 8 (Participant 1)
17	Mar 7, 2018	09:32:20.364	09:32:22.051	09:32:22.052	240,000 at \$1.30 (buy) 250,000 at \$1.30 (sell)	Related Account 13 (Participant 3)	Related Account 3 (Clarus)

	Date	Time of Buy order	Time of Sell Order	Execution Time	Vol and Price of Orders	Buy Client (Firm)	Sell Client (Firm)
18	Mar 12, 2018	15:09:45.203	15:09:47.150	15:09:47.151	500,000 at \$1.27 (buy) 499,600 at \$1.27 (sell)	Related Account 1 (Clarus)	Related Account 12 (Participant 3)
19	Mar 13, 2018	14:21:18.730	14:21:19.898	14:21:19.898	150,000 at \$1.29	Related Account 1 (Clarus)	Related Account 12 (Participant 3)
20	Mar 14, 2018	09:31:10.714	09:31:11.959	09:31:11.959	100,000 at \$1.31	Client Account A (Participant 3)	Related Account 3 (Clarus)
21	Mar 19, 2018	10:05:27.294	10:05:27.146	10:05:27.294	300,000 at \$1.23	Related Account 1 (Clarus)	Related Account 12 (Participant 3)
22	Mar 21, 2018	15:22:35.379	15:22:38.112	15:22:38.112	185,000 at \$1.18 (buy) 184,200 at \$1.18 (sell)	Related Account 1 (Clarus)	Related Account 12 (Participant 3)
23	Apr 2, 2018	10:18:13.211	10:18:12.083	10:18:13.211	1,150,000 at \$0.96	Related Account 1 (Clarus)	Related Account 14 (Participant 3)
24	Apr 9, 2018	10:21:21.685	10:21:24.914	10:21:24.917	800,000 at \$0.79	Related Account 1 (Clarus)	Related Account 14 (Participant 3)