



THE MANITOBA
SECURITIES
COMMISSION

THE SECURITIES ACT

Sections 8(1) and 31.1(4)

)
)
)

Order No. 6520

May 4, 2012

**JORY CAPITAL INC., PATRICK COONEY AND INVESTMENT INDUSTRY
REGULATORY ASSOCIATION OF CANADA**

WHEREAS:

(A) On April 23, 2012, The Manitoba Securities Commission (the "Commission") issued a Notice of Hearing giving notice of its intention to hold a hearing to consider, inter alia:

WHETHER it is in the public interest:

1. to make a decision in respect of the imposition and application of business restrictions first imposed by Investment Industry Regulatory Organization of Canada ("IIROC") on Jory Capital Inc. ("Jory") commencing in or about 2009, including the facts and circumstances leading to the decision to impose those business restrictions;

2. to make a decision with respect to the appeal by Jory of IIROC hearing panel decision dated January 28, 2011 ;

3. to make a decision with respect to the appeal by Jory of IIROC hearing panel decisions dated February 14, 2012 and April 11 , 2012;

4. that the registration of Jory under the Act be subject to reprimand , terms and conditions, suspension or cancellation;

5. that the registration of Patrick Cooney ("Cooney") under the Act be subject to reprimand, terms and conditions, suspension or cancellations;

6. that the application of Cooney for designation as Chief Compliance Officer and Ultimate Designated Person of Jory be approved;

7. such further and other matters and the making of such further and other orders as the Commission may deem appropriate.

(B) Jory's application for an appeal of the IIROC Hearing Panel decision dated April 23, 2012 that Cooney not be approved as Chief Compliance Officer ("CCO") and Ultimate Designated Person ("UDP") of Jory is withdrawn;

(C) Jory has been an IIROC Dealer Member since in or around 1999;

(D) Cooney has been the CEO and President of Jory since it began operating in 1999. Since 2007 he has not been the UDP of Jory;

(E) Jory, Cooney and IIROC Staff have consented to the issuance of this Order;
and

(F) Based on submissions made by counsel for Jory, counsel for Cooney, counsel for IIROC Staff, and counsel for the Commission Staff, the Commission is of the opinion that it would not be prejudicial to the public interest to make the Order as set out below.

IT IS ORDERED THAT:

1. Pursuant to s. 8(1)(b) of the Act, the registration of Jory be subject to the following terms and conditions:

- (a) by May 14, 2012 or such later date as IIROC may permit, Jory shall establish and maintain an independent Advisory Committee ("the Committee") in accordance with the Terms of Reference attached hereto as Schedule "A";
- (b) by May 14, 2012 or such later date as IIROC may permit, Jory shall engage the services of a qualified external compliance consultant (the "Monitor") acceptable to IIROC Staff to conduct an independent review of Jory's compliance and supervision policies and procedures and to provide comprehensive recommendations for ongoing compliance practices in accordance with the Terms of Reference attached hereto as Schedule "B"; and
- (c) until such time as an UDP and a CCO have been approved for Jory by IIROC, the Monitor shall, in conjunction with Jory's Operations Manager, perform the functions that would be performed by the UDP and CCO.

2. Pursuant to s.8(1)(c) of the Act, the registration of Jory will be cancelled on the date upon which one of the following occurs or on such later date as IIROC Staff may permit:

- (a) Jory fails to engage the Committee by May 14, 2012, or on such later date as IIROC Staff may permit, in accordance with Schedule "A";
- (b) Jory fails to maintain the Committee as constituted in accordance with Schedule "A";
- (c) Jory ceases to have a Carrying Broker;
- (d) Jory's Risk Adjusted Capital is negative and is not restored to a positive value within five (5) business days or such later date as IIROC Staff may permit;
- (e) Jory fails to engage or ceases to have the services of a Monitor that is acceptable to IIROC Staff in accordance with the terms of Schedule "B";
- (f) Jory fails to have in place an UDP who is approved by IIROC Staff by August 1, 2012 or such later date as IIROC Staff may permit; or
- (g) Jory fails to have in place a CCO who is approved by IIROC Staff by September 1, 2012 or such later date as IIROC Staff may permit.

3. (1) If any one of the following occurs (each an "Event of Default"):
- (a) Jory fails to provide a Business Plan to IIROC Staff as described in Schedule "A" by June 30, 2012 or on such later date as IIROC Staff may permit;
 - (b) Jory fails to rectify all of the Significant Deficiencies identified in the 2011 IIROC Business Conduct Compliance Review by November 1, 2012 or on such later date as IIROC Staff may permit;
 - (c) Jory fails to rectify the Significant Deficiencies identified in the 2011 IIROC Trading Conduct Examination by November 1, 2012 or on such later date as IIROC may permit; or
 - (d) Jory commits a breach of any of the other material terms in this Order, including the terms that are set out in Schedule "A" and Schedule "B", other than those in section 2 of this Order,

IIROC Staff shall give written notice thereof (the "Notice") to Jory and the Committee, and Jory shall have 14 days from the receipt of the Notice or as such longer period as IIROC Staff may permit, to remedy the Event of Default.

(2) If Jory fails to remedy any Event of Default to the satisfaction of IIROC Staff and within the permitted time period, Jory's registration will be cancelled pursuant to s. 8(1)(c) of the Act unless Jory requests and is granted an opportunity to be heard by the Commission for a determination of whether an Event of Default has occurred, or that the Event of Default has been remedied.

4. Pursuant to s.31.1(4) of the Act, the Enhanced Business Restriction ("EBR") Decisions that upheld the EBRs which prohibited Jory from:

- (i) opening any new branch offices;
- (ii) hiring any new registered representatives or investment representatives;
- (iii) opening any new customer accounts; or
- (iv) changing its inventory position in any material respect.

be forthwith removed upon:

- (i) Jory securing a capital injection of \$200,000; and
- (ii) Jory engaging a Monitor as set out in paragraph 1(b) of this Order.

5. Pursuant to s. 31.1(4) of the Act, the Penalty Decision be varied and it is ordered as follows:

- (a) Jory shall not pay a fine, but shall pay costs in the amount of \$50,000;
- (b) Cooney shall pay a fine of \$100,000 but shall not pay any costs; and

- (c) Cooney will be prohibited from being approved in all IIROC approval categories with the exception of registered representative, investment representative, executive and director, or any equivalent registration categories under the Act, any of which can be held concurrently.

6. For greater clarity, Cooney shall not be approved or registered as UDP or CCO and will not have any responsibility for the discharge of the functions of UDP and CCO, or the discharge of the functions of UDP and CCO by any other individuals.

7. Sections 1, 2, and 3 of this Order shall cease to operate and to have any effect upon Jory having completed a period of twenty four consecutive months (the "Period") of not being in Early Warning and Jory having been substantially in compliance with its ongoing financial operations, business conduct, and trading conduct requirements arising from the applicable IIROC Dealer Member Rules during such period. IIROC Staff shall promptly provide written notice of such substantial compliance to the Commission, Jory, and the Committee.

8. For the purpose hereof, Jory will be considered to be substantially in compliance with its business conduct and trading conduct compliance obligations when its IIROC Business Conduct Compliance Review(s) and IIROC Trading Conduct Compliance Examination(s) for the Period do not contain any Significant Findings.

9. Nothing in this Order precludes IIROC from executing its regular regulatory oversight over Jory and Cooney.

BY ORDER OF THE COMMISSION



Director, Legal & Enforcement

SCHEDULE "A"**TERMS OF REFERENCE - ADVISORY COMMITTEE****Composition**

1. The Advisory Committee (the "Committee") shall be composed of at least three individuals, all of whom must be acceptable to Jory and IIROC Staff.
2. Any vacancy on the Committee shall be filled by the Committee with an individual satisfactory to it, to Jory, and to IIROC Staff within two weeks of the departure of the vacating member or such later date as IIROC Staff may permit.

Mandate

3. The Committee shall have an unrestricted mandate to review and advise Jory on its sales, financial, and business practices, and any other matters that Committee deems appropriate.
4. The Chair of the Committee, in collaboration with Jory, shall conduct a comprehensive review of Jory's sales, financial and business operations in order to prepare a preliminary business plan (the "Preliminary Business Plan").
5. The Preliminary Business Plan shall include among other things:
 - (a) an operating budget;
 - (b) proposed strategies for the improvement of Jory's profitability and level of Risk Adjusted Capital; and
 - (c) proposals for the developments of internal financial controls over expenditures.
6. The Committee shall review and conduct a comprehensive analysis of the Preliminary Business Plan and consult with, advise and provide recommendations, where applicable, to Jory with a view to assisting Jory in finalizing a business plan (the "Business Plan") which will be filed with IIROC Staff pursuant to s.3(a) of the Order.
7. Any recommendations made by the Committee in relation to the Business Plan and not accepted by Jory to the satisfaction of the Committee shall be brought to the attention of IIROC Staff by the Committee at the time the Business Plan is provided to IIROC Staff.
8. The Committee shall monitor the implementation and the adherence to the Business Plan.
9. The Committee will remain in place for the period of time that the Order granted by the Commission in respect of these matters remains in force, or such lesser period that IIROC Staff may permit.

10. Jory and Cooney agree to provide the Committee with any information and/or records which the Committee requires in order to fulfill its mandate.
11. The Committee will have access to any employees of Jory to obtain information that the Committee deems necessary.

Power and Authority of the Committee

12. All officers of Jory, including Cooney, will report directly to the Committee.
13. Any change in Jory's personnel must be reviewed and found to be not objectionable by the Committee.
14. Jory's operating budgets must be reviewed and found to be not objectionable by the Committee.
15. The Committee shall be satisfied that Jory has appointed appropriate individuals and implemented systems relating to the authorization of payments and/or expenses incurred on behalf of Jory. All such payments and/or expenses incurred must be authorized by two individuals, one of whom must be the UDP, CCO, CFO or any other individual other than the CEO that is satisfactory to the Committee.
16. Prior to Jory entering into any contract which binds Jory to incur an expenditure in excess of \$10,000, the contract must be reviewed and found to be not objectionable by the Committee.

Reporting Requirements

17. On a quarterly basis, the Committee will provide a written status report to the Commission (the "Status Report"). Jory and IIROC Staff will also receive a copy of the Status Report from the Committee.
18. The Status Report will detail:
 - i. the progress of Jory and Cooney's adherence to the terms of the Business Plan;
 - ii. the level of Jory's risk adjusted capital;
 - iii. Jory's adherence to its operating budget;
 - iv. the steps taken to correct any and all deficiencies identified in the IIROC 2011 Business Conduct Compliance Review and the IIROC 2011 Trading Conduct Examination;
 - v. the steps taken to implement any other recommendations made by the Monitor regarding Jory overall regulatory compliance program;
 - vi. other regulatory and financial concerns, if any, including any substantive concerns identified by the officers reporting directly to the Committee on regulatory issues and the steps taken to address them; and

- vii. other matters that the Committee believes the Commission would like to be apprised of, if any.
- 19. After receiving the Status Report, the Commission may require Jory, Cooney, the Chairman of the Committee and IIROC Staff to appear before it to address any questions or concerns the Commission may have regarding the Status Report.

SCHEDULE "B"**TERMS OF REFERENCE - MONITOR****Retention of the Monitor**

1. The Monitor's compensation and expenses shall be borne exclusively by Jory.
2. The agreement with the Monitor shall provide that the Monitor conduct a review of the current state of Jory's compliance and supervisory policies and procedures (the "Review"). The Review shall include a review of the deficiencies as contained in the latest IIROC Business Conduct Compliance Review and Trading Conduct Examinations dated October 14, 2011 and March 2012. The Monitor's mandate will also include the provision of support to the CCO as long as required to ensure the CCO is able to fully perform his or her duties.
3. The goal of the Review is remedial and preventive, namely to identify and recommend improvements to the compliance and supervisory programs at Jory.

The Monitor's Reporting Obligations

4. The Monitor shall issue a report to the Committee and IIROC Staff as expeditiously as possible, but no later than 45 days from the day the Monitor was retained by Jory (the "Report"), or such later date as IIROC Staff may permit.
5. The Report shall include a description of the review performed, the conclusions reached, and the Monitor's recommendations for any changes or improvements to Jory's Policies and Procedures Manual, as the Monitor reasonably deems necessary to conform to regulatory requirements and best practices. The Report shall also include a proposed timetable for the implementation of the recommendations.
6. For greater certainty, notwithstanding the involvement of the Monitor, nothing limits IIROC to undertake as part of their normal course audit activities, a review of all matters within the scope of the Report or any other aspect of the business of Jory.
7. Within 30 days after receipt of the Report, Jory will advise IIROC Staff of a timetable to implement any recommendations contained in the Report. The timetable shall be no longer than six months, or such longer period as IIROC Staff may permit.
8. The Committee or Jory may seek the consent of IIROC Staff to not implement one or more of the recommendations in the Report; if the Committee or Jory so requests, it shall provide IIROC Staff and the Monitor with the reason(s) for its position, and if applicable, any alternative actions, policies or procedures it proposes to adopt instead.
9. On a monthly basis, Jory shall advise IIROC Staff in writing of the progress of the implementation of the recommendations, as determined in paragraphs 7 and 8.

Terms of the Monitor's Retention

10. The Monitor shall enter into a confidentiality and non-disclosure agreement satisfactory to the Monitor, Jory and IIROC Staff (all acting reasonably). The Monitor shall then have reasonable access to all of the Jory's books and records which reasonably relate to the scope of the Review and the ability to meet privately with any of Jory's personnel who are deemed by the Monitor to be necessary to conduct the Review.
11. Jory shall instruct and ensure that its officers, directors, and employees cooperate fully with the Review conducted by the Monitor, and inform its officers, directors, and employees that failure to cooperate with the Review may be grounds for disciplinary action.