

ALBERTA SECURITIES COMMISSION

Citation: Re Jonathan Financial Inc., 2016 ABASC 202

Docket: ENF-009973

Date: 20160718

NOTICE OF HEARING

To: Jonathan Financial Inc. and Gregory Frederick Hilderman

Notice: The Alberta Securities Commission (the **Commission**) will convene at **1:00 p.m., Wednesday, September 14, 2016** at Calgary, Alberta, to set a date for hearing regarding the allegations in this Notice. At the hearing, the Commission will consider whether it is in the public interest to make orders against you under sections 198, 199, and 202 of the *Securities Act*, RSA 2000, c. S-4, as amended (*Act*).

Location: Alberta Securities Commission, 5th Floor, 250 – 5 Street SW, Calgary, Alberta.

Procedure:

1. You may obtain disclosure and particulars of the allegations in this Notice from Robert Stack, c/o Alberta Securities Commission, 600, 250 - 5 Street SW, Calgary, Alberta, T2P 0R4, telephone: 403.297.4370, robert.stack@asc.ca.
2. You may be represented by legal counsel and you or your counsel may make representations and introduce relevant evidence.
3. If you or your counsel fail to attend on **Wednesday, September 14, 2016 at 1:00 p.m.**, or as directed, the hearing may proceed in your absence and an order may be made against you without further notice.

See attached sections 29, 198, 199, and 202 of the Act, and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.

Reciprocation: Take notice that orders or settlements made by the Alberta Securities Commission may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to you. If an order is made or a settlement agreement is reached in relation to this Notice of Hearing, you should contact the securities regulator of any other jurisdiction in which you may intend to engage in any securities-related activities.

Allegations

Parties

1. Jonathan Financial Inc. (**Jonathan Financial**) is a corporation formed pursuant to the laws of Alberta.
2. Gregory Frederick Hilderman (**Hilderman**) is a resident of Calgary, Alberta. He was, at all material times, the president of Jonathan Financial.

Circumstances

3. Between in or around January 2011 up to at least as late as May 30, 2014, Jonathan Financial sold debentures to individuals in Alberta and elsewhere in Canada.
4. Between January 2011 and May 2014, Jonathan Financial raised approximately \$10,600,493 through the sale of these debentures. Jonathan Financial filed one report of exempt distribution with the Commission covering debentures worth \$3,376,708, but made no other filings.
5. The debenture form provided to some or all of the investors indicated that their debenture was "...one of a number of secured debentures issuable by the Corporation for an aggregate principal amount of \$2,000,000."
6. The debenture form provided to some or all of the investors further stated that the debentures would be secured by a floating charge in favour of the investor over "all of the present and future accounts due or accruing due to the Corporation and Gregory Hilderman as well as any future income from other sources." The debenture further stated that Jonathan Financial would complete "...all registrations or filings necessary or advisable with a relevant provincial property registries to perfect the Charge created herein."
7. The representation that the debenture sales would be sold up to an aggregated amount of \$2 million would reasonably be expected to have had a significant effect on the price or value of the debenture. A debenture of \$2 million or less would be better secured by the assets of Jonathan Financial and Hilderman than a distribution in excess of \$2 million.
8. The representation that Jonathan Financial would make filings to perfect the security interest created by the debentures would reasonably be expected to have a significant effect on the price or value of the debentures. A registered, perfected charge provided more security to investors than an unregistered, unperfected one.
9. In fact, Jonathan Financial did not register the security interests created by the debentures with the Personal Property Registry of Alberta. Further, Jonathan Financial issued debentures totaling far in excess of \$2 million.
10. Hilderman was personally involved in selling the debentures and effectively made the representations described above by providing the debenture forms to investors. Further, he

authorized Jonathan Financial to make the representations set out above. He permitted Jonathan Financial to fail to file exempt distribution reports covering the entire distribution of debentures.

Breaches

11. As a result of the above, Staff allege that:

11.1 Jonathan Financial breached section 6.1 of National Instrument 45-106 by failing to file reports of exempt distribution covering all of its sales of debentures; Hilderman permitted this breach to occur; and

11.2 Jonathan Financial and Hilderman breached section 92(4.1) of the *Act* by:

11.2.1 stating that Jonathan Financial would raise only \$2 million via the distribution of securities when it in fact raised over \$10 million; and

11.2.2 stating that Jonathan Financial would conduct all filings necessary to perfect the security interest created by debentures when in fact Jonathan Financial did not make any such filings.

12. Staff further allege that the Respondents' violations above constitute conduct that is contrary to the public interest.

Calgary, Alberta, 18 July 2016.

) ALBERTA SECURITIES COMMISSION

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) *“Original signed by”*

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David C. Linder, Q.C.

) Executive Director