



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, AS AMENDED**

- and -

**IN THE MATTER OF
ANIL KUMAR JAIN**

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT

SETTLEMENT HEARING RE: ANIL KUMAR JAIN

HEARING: Monday June 9, 2008

PANEL: Wendell S. Wigle - Commissioner and Chair of the Panel
Margot C. Howard - Commissioner

APPEARANCES: Matthew Britton -for Staff of the Ontario Securities
Commission

Anil Kumar Jain -for himself

ORAL RULING AND REASONS

The following text has been prepared for the purpose of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the Chair of the Panel for the purpose of providing a public record of the decision.

Chair:

[1] This was a hearing under sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, (the “Act”) for the Ontario Securities Commission (the “Commission”) to consider whether it is in the public interest to approve a proposed Settlement Agreement between Staff of the Commission (“Staff”) and the respondent Anil Kumar Jain (“Mr. Jain”).

[2] We have read the written submissions, and heard the oral submissions and we have decided to approve the Settlement Agreement as being in the public interest.

[3] This case involves unregistered advising and unregistered trading. This type of conduct concerns the Commission because Mr. Jain engaged in activities without proper registration, supervision and compliance oversight.

[4] From the end of May 2003 to March 2008, Mr. Jain acted as an advisor without being registered as an advisor and performed acts in furtherance of a trade while unregistered to trade securities contrary to section 25(1)(a) and (c) of the Act.

[5] During this time, he dealt with several dealers and at some point thought he was either registered or being registered. He was proactive with the Commission with respect to his registration, and the particular facts with respect to his dealings of 2003 to 2007 are set out in paragraphs 9 to 17 of the Settlement Agreement.

[6] In particular, Mr. Jain had an active website that described the investment services he offered which included preparing a financial plan, preparing periodic financial reports and rebalancing client accounts. He offered advice to his clients and conducted acts in furtherance of a trade on behalf of his clients.

[7] By entering into the Settlement Agreement, Mr. Jain has recognized that his conduct was contrary to the public interest, and Mr. Jain has accepted sanctions which include:

- Mr. Jain shall cease trading in securities for nine months;
- Mr. Jain shall be prohibited from acquiring any securities for nine months;
- any exemptions contained in Ontario securities law shall not apply to Mr. Jain for nine months; and
- Mr. Jain shall pay costs of \$3,000.00 toward the cost of this hearing.

[8] We are guided by the sanctioning factors Staff referred us to in *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743, which include:

- the seriousness of the allegations;
- the respondent’s experience in the marketplace;
- the level of the respondent’s activity in the marketplace;
- whether or not there has been a recognition of the seriousness of the improprieties;

- the restraint of future conduct that is likely to be prejudicial to the public interest (with reference to past conduct);
- any mitigating factors; and
- the remorse of the respondent.

[9] We are also mindful that sanctions are to be protective and preventative. It is the Commission's mandate, as set out in section 1.1 of the Act, to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in the capital markets. It is not the role of the Commission to punish a respondent, but rather to make an Order that will protect investors and prevent their exposure to similar conduct in the future.

[10] In this case, we find that the sanctions are adequate. Staff has pointed out in their submissions that there is no suggestion that Mr. Jain recommended unsuitable investments to his clients or misappropriated the funds of clients. There has been no harm to clients in the present case.

[11] We were also influenced by the following mitigating factors set out in the Settlement Agreement. Specifically:

- Mr. Jain cooperated with Staff's investigation;
- Mr. Jain removed all references to investment practices from his website effective March 30, 2008;
- Mr. Jain commenced transfer of his investment practice to a registered representative; and
- Mr. Jain has not engaged in any acts in furtherance of a trade since termination of his relationship with ASL Direct Inc. in September 2007.

[12] Taking into consideration Mr. Jain's cooperation with Staff, his efforts to correct his conduct, and that the investing public was not harmed, we are satisfied that Mr. Jain does not pose a threat to the capital markets, the sanctions included in the Settlement Agreement are adequate and that it is in the public interest to approve this Settlement Agreement.

Approved by the Chair of the Panel on this 24th day of June 2008.

“Wendell S. Wigle”

Wendell S. Wigle, Q.C.