



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 DAVID M. O'BRIEN**

**ORDER**

**WHEREAS** on December 8, 2010, the Secretary of the Commission issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission at 20 Queen Street West, 17<sup>th</sup> Floor Hearing Room on Monday, December 20, 2010 at 10:30 a.m., or as soon thereafter as the hearing can be held;

**AND WHEREAS** the Notice of Hearing provides for the Commission to consider, among other things, whether, in the opinion of the Commission, it is in the public interest, pursuant to s. 127 of the Act, to issue temporary orders against David M. O'Brien ("O'Brien"), as follows:

- (a) O'Brien shall cease trading in any securities for a prescribed period or until the conclusion of the hearing on the merits in this matter;
- (b) O'Brien is prohibited from acquiring securities for a prescribed period or until the conclusion of the hearing on the merits in this matter; and
- (c) Any exemptions contained in Ontario securities law do not apply to O'Brien for a prescribed period or until the conclusion of the hearing on the merits in this matter;

**AND WHEREAS** Staff served the O'Brien with the Notice of Hearing, Staff's Statement of Allegations dated December 7, 2010, and the Affidavit of Lori Toledano ("Toledano"),

affirmed on December 15, 2010, as evidenced by the Affidavit of Daniela De Chellis, sworn on December 16, 2010, and filed with the Commission;

**AND WHEREAS** on December 20, 2010 Staff of the Commission and O'Brien appeared before the Commission and made submissions. During the hearing on December 20, 2010, O'Brien advised the Commission that he was opposed to Staff's request that temporary orders be issued against him and that he wished to cross-examine Toledano on her Affidavit;

**AND WHEREAS** on December 20, 2010, the hearing with respect to the issuance of the temporary orders was adjourned until December 23, 2010 at 12:30 p.m.;

**AND WHEREAS** on December 23, 2010, a hearing with respect to the issuance of the temporary orders was held and the panel of the Commission considered the Affidavit of Toledano, the cross-examination by O'Brien of Toledano and the submissions made by Staff and O'Brien;

**AND WHEREAS** the panel of the Commission is of the opinion that it is in the public interest to make this order;

**IT IS HEREBY ORDERED** pursuant to section 127 of the Act that:

- (a) O'Brien shall cease trading securities;
- (b) O'Brien is prohibited from acquiring securities; and
- (c) Any exemptions contained in Ontario securities law do not apply to O'Brien.

(the "Temporary Cease Trade Order");

**IT IS FURTHER ORDERED** that the Temporary Cease Trade Order shall expire on April 1, 2011;

**IT IS FURTHER ORDERED** that Staff and O'Brien shall consult with the Office of the Secretary of the Commission to schedule a confidential pre-hearing conference for this matter.

**DATED** at Toronto this 23<sup>rd</sup> day of December, 2010.

*"Mary G. Condon"*

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Mary G. Condon