



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 PAUL LESTER STILES

**REASONS AND DECISION
(Subsections 127(1) and 127(10) of the Act)**

Decision: July 31, 2014

Panel: James E. A. Turner - Vice-Chair

Counsel: Keir D. Wilmut - For Staff of the Commission

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Schedule “A” – Form of Order

REASONS FOR DECISION

I. OVERVIEW

[1] This was a hearing (the “**Hearing**”) conducted in writing before the Ontario Securities Commission (the “**Commission**”) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “**Act**”) to consider whether it is in the public interest to make an order imposing market conduct restrictions against Paul Lester Stiles (the “**Respondent**” or “**Stiles**”).

[2] A Notice of Hearing in this matter was issued by the Commission on April 23, 2014 and a Statement of Allegations was filed by Staff of the Commission (“**Staff**”) on the same date. Both the Notice of Hearing and the Statement of Allegations were duly served on the Respondent.

[3] On May 14, 2014, the Commission heard an application by Staff to convert this matter to a written hearing in accordance with Rule 11.5 of the Commission’s *Rules of Procedure* (2012), 35 OSCB 10071, and section 5.1(2) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended. The Respondent was duly served with that application and did not appear at the application hearing or make any submissions.

[4] The Commission granted Staff’s application to proceed by way of written hearing and set a schedule for submission of materials by the parties.

[5] Staff provided written submissions, a hearing brief and a brief of authorities. The Respondent did not appear and did not file any responding materials.

Facts

[6] Stiles is subject to an order made by the British Columbia Securities Commission (the “**BCSC**”) dated October 3, 2012 (the “**BCSC Order**”) that imposes sanctions, conditions, restrictions or requirements upon him.

[7] In its findings dated October 3, 2012 (the “**Findings**”), a panel of the BCSC (the “**BCSC Panel**”) found that Stiles made misrepresentations with the intention of trading in securities, contrary to subsection 50(1)(d) of the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418 (the “**BC Act**”).

[8] Staff are seeking an order against the Respondent pursuant to subsection 127(10)4 of the Act, based on the BCSC Order.

[9] The conduct for which the Respondent was sanctioned occurred between 2009 and 2012 (the “**Material Time**”).

[10] During the Material Time, Stiles was a resident of British Columbia and the sole director of Velocity Entertainment Inc. (“**Velocity**”). Velocity does not exist. Velocity was a British

Columbia company that dissolved in December 2005 and has never filed a prospectus under the BC Act.

[11] During the Material Time, Stiles solicited investments in Velocity, purportedly a Vancouver-based film and television production company. Using the Craigslist website to promote the investments, Stiles advertised that funds were required for the production of two feature films, and offered investors guaranteed returns on their loans to Velocity.

[12] The BCSC first became aware of Stiles' Craigslist solicitations and issued a warning letter to Stiles in October 2009 advising that his capital-raising activities were in contravention of BC securities laws.

[13] In March 2010, Stiles made a further posting on Craigslist. In August 2011, the BCSC became aware that Stiles was again soliciting Velocity investments online. Posing as an investor, a BCSC investigator communicated with Stiles in a series of e-mails in which Stiles guaranteed the investigator a 100% return for a six month loan of \$15,000. Stiles also provided the investigator with directions to wire funds to a bank account controlled by Stiles.

[14] In March 2012, Stiles made another posting on Craigslist to solicit investments in Velocity. Posing as an investor, another BCSC investigator replied to the posting and was offered a range of returns on sixty day loans: \$25,000 for a loan of \$20,000, \$13,000 for \$10,000, or \$9,000 for \$7,500. In April 2012, BCSC Staff contacted Stiles to advise him that they were aware of his Craigslist postings in the summer of 2011 and in March of 2012. BCSC Staff again cautioned Stiles that his capital-raising activities contravened the BC Act, and reminded him of the BCSC's October 2009 warning letter.

[15] Staff relies in this matter on subsection 127(10)4 of the Act, which permits the Commission to make an order under subsections 127(1) or 127(5) of the Act in respect of a person or company who is subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company (see paragraph [22] of these reasons).

[16] These are my reasons for the order that I issue imposing sanctions on the Respondent pursuant to subsections 127(1) of the Act in reliance on subsection 127(10) of the Act.

II. FINDINGS OF THE BRITISH COLUMBIA SECURITIES COMMISSION

[17] The BCSC Panel found that the Respondent breached a cornerstone of the regulatory framework of the BC Act by making “blatant and serious” misrepresentations with the intention of trading in securities, which he knew or ought reasonably to have known were false. The BCSC Panel held:

The returns Stiles offered the two investigators are impossible to achieve in the absence of significant risk, as this Commission has found in previous cases (see *International Fiduciary Corp SA*, 2008 BCSECCOM 107 at para. 45; *Manna Trading Corp. Ltd.*, 2009 BCSECCOM 426 at para. 101).

...

Each of these untrue statements and omissions alone, and certainly all of them together, would be reasonably expected to have a significant effect on the value of the investment. The value of any investment is inextricably linked to the risk associated with it. What Stiles told, or omitted to tell, the investigators was important to the assessment of risk: whether the debtor existed; whether it had a credible business presence; whether it had money in the bank; the risks associated with promised returns of 200%.

...

There is no doubt that Stiles knew the statements were untrue. He had to have known that everything he represented was false.

BCSC Decision, supra at paras. 31-34 and 37

[18] The BCSC Panel found that the Respondent was not enriched by his misconduct because no investors actually advanced funds to the Respondent. The BCSC Panel noted, however, that:

... The dishonesty was present, but not the deprivation.

...

Stiles attempted fraud. It is difficult to draw any conclusion other than that, had the money been invested, the pecuniary interests of the investors would have been put at risk. The money was to be forwarded to a company that did not exist on the strength of a loan agreement, obviously unenforceable, with that company. The money would have gone, not to the company's bank account, but to Stiles' personal account. The returns offered implied significant risk.

...

This is an attempted fraud... Attempted frauds have the same potential to seriously impair the integrity and reputation of our markets as do actual frauds, especially if it were to appear that attempted frauds drew consequences significantly less serious than actual ones.

BCSC Decision, supra at paras. 35-36 and 42-44

[19] The BCSC Panel also noted that Stiles had been warned about his illegal activity by BCSC Staff but he ignored that warning. Further, the BCSC Panel concluded that Stiles presents a risk of future harm to investors and to the capital markets:

Stiles was warned in 2009 about his illegal activities and ignored it. When he was warned again in April 2012 his reply shows he has contempt for our system of securities regulation. His misconduct has been going on for three years. His conduct shows that he has attempted fraud before and will continue to do so. His attempted fraudulent conduct and his defiance of the regulatory system shows he presents a significant risk to investors and markets.

BCSC Decision, supra at para. 45

[20] In its reasons, the BCSC Panel concluded that:

...Stiles made blatant and serious misrepresentations. Clearly, he did so with the intention of trading in securities. We find that Stiles contravened section 50(1)(d).

Stiles (Re) 2012 BCSECCOM 383 at para. 34

The BCSC Order

[21] The BCSC Order imposed the following sanctions, conditions, restrictions or requirements upon Stiles:

- (a) pursuant to subsection 161(1)(b) of the BC Act, that Stiles cease trading permanently, and is permanently prohibited from purchasing securities or exchange contracts;
- (b) pursuant to subsections 161(1)(d)(i) and (ii) of the BC Act, that Stiles resign any position he holds as, and is permanently prohibited from becoming or acting as, a director or officer of any issuer or registrant;
- (c) pursuant to subsection 161(1)(d)(iii) of the BC Act, that Stiles is permanently prohibited from becoming or acting as a registrant or promoter;
- (d) pursuant subsection 161(1)(d)(iv) of the BC Act, that Stiles is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
- (e) pursuant to subsection 161(1)(d)(v) of the BC Act, that Stiles is permanently prohibited from engaging in investor relations activities; and
- (f) pursuant to section 162 of the BC Act, that Stiles pay to the BCSC an administrative penalty of \$35,000.

III. ANALYSIS

A. SUBSECTION 127(10) OF THE ACT

[22] Subsection 127(10) of the Act provides in part as follows:

127 (10) Inter-jurisdictional enforcement – Without limiting the generality of subsections (1) and (5), an order may be made under subsection (1) or (5) in respect of a person or company if any of the following circumstances exist:

...

4. The person or company is subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company.

...

[23] The BCSC Order makes the Respondent subject to an order of the BCSC that imposes sanctions, conditions, restrictions or requirements on him, within the meaning of subsection 127(10)4 of the Act.

[24] Accordingly, based on the BCSC Order, the Commission may make one or more orders under subsections 127(1) of the Act, if in its opinion it is in the public interest to do so.

[25] In *Re Euston Capital Corp.* (2009), 32 OSCB 6313 (“*Euston Capital*”), the Commission concluded that subsection 127(10) of the Act can be the grounds for an order in the public interest under subsection 127(1) of the Act, based on a decision and order made in another jurisdiction:

... we conclude that we can make an order against the Respondents pursuant to our public interest jurisdiction under section 127 of the Act on the basis of decisions and orders made in other jurisdictions, if we find it necessary in order to protect investors in Ontario and the integrity of Ontario’s capital markets.

(*Euston Capital, supra*, at para. 26)

[26] I therefore find that I have the authority to make a public interest order against the Respondent under subsection 127(1) of the Act in reliance on subsection 127(10) of the Act, based on the Findings and the BCSC Order.

[27] I must determine whether, based on the Findings and the BCSC Order, the market conduct restrictions proposed by Staff would be in the public interest. An important consideration is whether the respondent's conduct would have constituted a breach of the Act and/or would have been considered to be contrary to the public interest if it had occurred in Ontario. (*JV Raleigh Superior Holdings Inc., Re* (2013), 36 OSCB 4639 at para. 16 (“*JV Raleigh*”).

B. SUBMISSIONS OF THE PARTIES

[28] In order to protect Ontario investors and capital markets, Staff submits that it is in the public interest for the Commission to impose market conduct restrictions on the Respondent consistent with the sanctions imposed by the BCSC pursuant to the BCSC Order.

[29] Staff requests the following sanctions against the Respondent:

- (a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by Stiles cease permanently;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by Stiles cease permanently;
- (c) pursuant to paragraph 7 of subsection 127(1) of the Act, Stiles resign any positions that he holds as director or officer of an issuer;
- (d) pursuant to paragraph 8 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as an officer or director of an issuer;
- (e) pursuant to paragraph 8.1 of subsection 127(1) of the Act, Stiles resign any positions that he holds as director or officer of a registrant;
- (f) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as an officer or director of a registrant; and
- (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as a registrant or as a promoter.

[30] Staff submits that I am entitled to issue an order imposing these market conduct restrictions based solely on the evidence before me, which consists of the Findings, the reasons of the BCSC Panel and the BCSC Order.

C. SHOULD AN ORDER BE IMPOSED?

[31] When exercising the public interest jurisdiction under section 127 of the Act, I must consider the purposes of the Act. Those purposes, set out in section 1.1 of the Act, are:

- (a) to protect investors from unfair, improper or fraudulent practices; and
- (b) to foster fair and efficient capital markets and confidence in capital markets.

[32] In pursuing these purposes, I must have regard for the fundamental principles described in section 2.1 of the Act. That section provides that one of the primary means for achieving the purposes of the Act is restrictions on fraudulent and unfair market practices and procedures.

[33] The Divisional Court in *Erikson v. Ontario (Securities Commission)* acknowledged that when considering imposing an order under subsection 127(1), it should be remembered that

“participation in the capital markets is a privilege and not a right” (*Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593 (Div. Ct.) at para. 55).

[34] An order under section 127 of the Act is protective and preventative in nature. As stated in *Re Mithras Management Ltd.* (1990), 13 OSCB 1600 at 1610-1611:

... the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now section 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In doing so we must, of necessity, look to past conduct as a guide to what we believe a person’s future conduct might reasonably be expected to be; we are not prescient, after all.

[35] While the Commission must make its own determination of what is in the public interest, it is important that the Commission recognize the increasingly complex and cross-jurisdictional nature of securities markets. (*JV Raleigh, supra*, at paras. 21-26, and *New Futures Trading International Corp.* (2013), 36 OSCB 5713 at paras. 22-27)

[36] In imposing the market conduct restrictions in this matter, I am relying on the Findings, the BCSC reasons for imposing sanctions on Stiles and the BCSC Order. In my view, it is not appropriate in doing so to revisit or second-guess the Findings.

[37] I find that it is necessary to protect Ontario investors and the integrity of Ontario’s capital markets to impose market conduct restrictions against the Respondent in the public interest.

D. THE APPROPRIATE RESTRICTIONS

[38] In determining the nature and duration of the appropriate market conduct restrictions, I must consider the relevant facts and circumstances, including:

- (a) the seriousness of the Respondent’s conduct and breaches of the BC Act;
- (b) the potential harm to investors;
- (c) whether or not the restrictions imposed may serve to deter the Respondent from engaging in similar abuses of the Ontario capital markets; and
- (d) the effect any Ontario restrictions may have on the ability of the Respondent to participate without check in Ontario capital markets.

(See, for instance, *Re Belteco Holdings Inc.* (1998), 21 OSCB 7743 (“*Belteco*”) at paras. 25 and 26.)

[39] The following facts and circumstances are particularly relevant in determining the market conduct restrictions that should be ordered against the Respondent:

- (a) the Respondent was found by the BCSC Panel to have breached British Columbia securities law; and
- (b) the conduct for which the Respondent was sanctioned in the BCSC Order would have likely constituted a contravention of Ontario securities law if it had occurred in Ontario, specifically a contravention of subsections 126.2(1) and 126.1(2) of the Act.

[40] In my view, there are no mitigating factors or circumstances.

[41] I have reviewed the Commission and other decisions referred to me by Staff in assessing the market conduct restrictions appropriate in this case. In reviewing those decisions, I note that each case depends upon its particular facts and circumstances (*Re M.C.J.C. Holdings Inc.* (2002), 25 OSCB 1133 at paras. 9 and 10 and *Belteco*, *supra*, at para. 26).

[42] In *British Columbia (Securities Commission) v. McLean* (2011) BCCA 455 (“*McLean*”), the British Columbia Court of Appeal held that when issuing an order reciprocating an order originally made in Ontario, the BCSC has a duty to provide reasons, however brief, for the order it is imposing and why they are in the public interest (*McLean*, *supra*, at paras. 28-29).

[43] In *Lines v. British Columbia (Securities Commission)*, (2012) BCCA 316 (“*Lines*”), the British Columbia Court of Appeal interpreted *McLean*, *supra*, as holding that the Commission “must make its own determination of the public interest under s. 161 [section 127 of the Act], rather than make an order automatically based on the order of the foreign jurisdiction” (*Lines*, *supra*, at para. 31).

[44] The Commission held in (*Elliott, Re* (2009), 23 OSCB 6931 at para. 24 (“*Elliott*”)) that “subsection 127(10) ... allows the Commission to consider any convictions or orders made against an individual in other jurisdictions, when deciding whether or not to make an order under subsection 127(1) or (5) in the public interest.”

[45] While the Commission may rely on the findings made in another jurisdiction, it must satisfy itself that an order is necessary to protect the public interest in Ontario:

The applicability of subsection 127(10) to the BCSC Order and the Settlement Agreement does not automatically lead to the conclusion that this Panel must make an order similar to that made by the BCSC against Elliott. Rather, we must first consider whether or not sanctions are necessary to protect the public interest, before exercising any powers granted to us under subsections 127(1) and (5), and second, if necessary, consider what the appropriate sanctions should be.

(*Elliott*, *supra*, at para. 27)

[46] In matters such as this, the Commission has relied on the findings made in other jurisdictions and has not required a direct connection to Ontario or Ontario capital markets (*Weeres, Re* (2013), 36 OSCB 3608, *Shantz (Re)* (2013), 36 OSCB 5993, *TransCap Corp. (Re)* (2014), 37 OSCB 2119, *De Gouveia (Re)* (2014), 37 OSCB 4501).

[47] The Supreme Court of Canada has affirmed that the Commission may make an order under section 127 of the Act for the purposes of deterrence, stating that “it is reasonable to view general deterrence as an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative.” (*Cartaway Resources Corp.*, 2004 SCC 26 at para. 60 (“*Cartaway*”))

[48] The Supreme Court emphasized that deterrence may be specific to the individual or general to deter the public at large. The Supreme Court held that “[i]n both cases, deterrence is prospective in orientation and aims at preventing future conduct.” (*Cartaway, supra* para. 52)

[49] Staff has no evidence to suggest that Ontario investors were harmed by the Respondent's conduct; however, based on the Findings and the reasons of the BCSC Panel, Staff submit that it is in the public interest to protect Ontario investors from the Respondent by preventing or limiting his future participation in Ontario's capital markets.

[50] Staff submits that the market conduct restrictions imposed in the BCSC Order are appropriate to the misconduct of the Respondent and serve as both specific and general deterrence. Staff further submits that a protective order imposing market conduct restrictions on the Respondent, substantially similar to those imposed by the BCSC Order, are appropriate to protect Ontario investors and Ontario capital markets from similar misconduct by the Respondent.

[51] I accept Staff's submissions in paragraphs 49 and 50 above.

[52] Based on the foregoing, I have concluded that it is in the public interest to make an order under subsection 127(1) of the Act imposing the following market conduct restrictions on the Respondent:

- (a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Stiles shall cease permanently;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Stiles shall cease permanently;
- (c) pursuant to paragraph 7 of subsection 127(1) of the Act, Stiles shall resign any positions that he holds as director or officer of an issuer;
- (d) pursuant to paragraph 8 of subsection 127(1) of the Act, Stiles shall be prohibited permanently from becoming or acting as an officer or director of an issuer;
- (e) pursuant to paragraph 8.1 of subsection 127(1) of the Act, Stiles shall resign any positions that he holds as director or officer of a registrant;

- (f) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Stiles shall be prohibited permanently from becoming or acting as an officer or director of a registrant; and
- (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Stiles shall be prohibited permanently from becoming or acting as a registrant, an investment fund manager or as a promoter.

IV. CONCLUSION

[53] Accordingly, I find that it is in the public interest to issue an order in the form attached as Schedule “A” to these reasons.

DATED at Toronto this 31st day of July, 2014.

“James E. A. Turner”

James E. A. Turner

Schedule "A"



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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 PAUL LESTER STILES

ORDER

(Subsections 127(1) and 127(10) of the Act)

WHEREAS on April 23, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Paul Lester Stiles (the "Respondent");

AND WHEREAS on April 23, 2014, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

AND WHEREAS on May 14, 2014, the Commission heard an application by Staff to convert the matter to a written hearing in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2012), 35 OSCB 10071 and section 5.1(2) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended;

AND WHEREAS the Commission granted Staff's application to proceed by written hearing and established a schedule for the submission of materials by the parties;

AND WHEREAS Staff filed written submissions, a hearing brief and a brief of authorities;

AND WHEREAS the Respondent did not appear and did not file any materials;

AND WHEREAS the Respondent is subject to an order dated October 3, 2012 made by the British Columbia Securities Commission that imposes sanctions, conditions, restrictions or requirements upon him within the meaning of paragraph 4 of subsection 127(10) of the Act;

AND WHEREAS I find that it is in the public interest to issue this order pursuant to subsection 127(1) of the Act in reliance upon subsection 127(10) of the Act for the reasons set forth in my reasons and decision dated the date of this Order;

IT IS HEREBY ORDERED THAT:

- (a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Stiles shall cease permanently;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Stiles shall cease permanently;
- (c) pursuant to paragraph 7 of subsection 127(1) of the Act, Stiles resign any positions that he holds as director or officer of an issuer;
- (d) pursuant to paragraph 8 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as an officer or director of an issuer;
- (e) pursuant to paragraph 8.1 of subsection 127(1) of the Act, Stiles resign any positions that he holds as director or officer of a registrant;
- (f) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as an officer or director of a registrant; and
- (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Stiles be prohibited permanently from becoming or acting as a registrant, investment fund manager or as a promoter.

DATED at Toronto this 31st day of July, 2014.

“James E. A. Turner”

James E. A. Turner