



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

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

- AND -

**IN THE MATTER OF
NORTH AMERICAN FINANCIAL GROUP INC., NORTH AMERICAN CAPITAL
INC., ALEXANDER FLAVIO ARCONTI AND LUIGINO ARCONTI**

**ORDER
(Sections 127 and 127.1 of the *Securities Act*)**

WHEREAS on December 28, 2011, the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing (the “**Notice of Hearing**”), pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “**Act**”), accompanied by a Statement of Allegations dated December 28, 2011 filed by Staff of the Commission (“**Staff**”) with respect to North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti (“**Flavio Arconti**”) and Luigino Arconti (“**Gino Arconti**”) (collectively, the “**Respondents**”);

AND WHEREAS a hearing on the merits in this matter was held before the Commission on April 29 and 30, May 1-3, 6, 8-10, 22 and 23 and September 11, 2013;

AND WHEREAS following the hearing on the merits, the Commission issued its Reasons and Decision with respect to the merits on December 11, 2013;

AND WHEREAS on December 11, 2013, the Commission ordered that:

- (a) Staff shall file and serve written submissions on sanctions and costs by February 14, 2014;
- (b) the Respondents shall file and serve written submissions on sanctions and costs by March 7, 2014;
- (c) Staff shall file and serve written reply submissions on sanctions and costs by March 14, 2014; and

- (d) the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, Toronto, commencing on March 24, 2014 at 10:00 a.m.;

AND WHEREAS on January 22, 2014, counsel for the Respondents, Ian R. Smith (“**Smith**”), brought a motion for leave to withdraw as representative for the Respondents, pursuant to Rule 1.7.4 of the Commission’s *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the “**Motion**”), which Motion was unopposed by Staff;

AND WHEREAS on January 31, 2014, the Commission granted leave to Smith to withdraw as counsel of record for the Respondents;

AND WHEREAS on February 14, 2014, Staff filed and served its written submissions on sanctions and costs, a Brief of Authorities and a Sanction Brief;

AND WHEREAS on March 6, 2014, Staff filed and served the Affidavit of Marcel Tillie sworn on March 6, 2014;

AND WHEREAS on March 6, 2014, Alexander Gillespie notified the Commission that he had been retained to act for the Respondents, that the Respondents requested an adjournment of the hearing to determine sanctions and costs to March 28, 2014, that the Respondents requested modifications to the timetable for the delivery of submissions as set out in the Order of the Commission dated December 11, 2013 and that Staff did not oppose the Respondents’ requests;

AND WHEREAS on March 10, 2014, the Commission ordered that:

- (a) the hearing to determine sanctions and costs, scheduled for March 24, 2014 at 10:00 a.m., be adjourned and shall be held on March 28, 2014 at 10:00 a.m.;
- (b) Staff shall file and serve any additional evidence and supplementary submissions on sanctions and costs by March 10, 2014;
- (c) the Respondents shall file and serve written submissions on sanctions and costs by March 21, 2014; and
- (d) Staff shall file and serve any reply submissions on sanctions and costs by March 26, 2014;

AND WHEREAS on March 20, 2014, the Respondents requested an adjournment of the hearing to determine sanctions and costs from March 28, 2014 to April 2, 2014 and Staff did not object to this request;

AND WHEREAS on March 20, 2014, the Commission granted the Respondents' request to adjourn the hearing on sanctions and costs to April 2, 2014;

AND WHEREAS on March 26, 2014, prior to a formal order being issued in relation to the adjournment of the hearing on sanctions and costs to April 2, 2014, the Respondents sought a further adjournment of the hearing on sanctions and costs to allow counsel for the Respondents additional time to review the file he received from the Respondents' former counsel and to prepare his clients' written submissions on sanctions and costs;

AND WHEREAS Staff objected to a further adjournment of the hearing on sanctions and costs;

AND WHEREAS on March 27, 2014, the Commission ordered that:

- (a) the hearing to determine sanctions and costs be adjourned and shall be held on May 7, 2014 at 10:00 a.m.;
- (b) the Respondents shall file and serve written submissions on sanctions and costs by April 25, 2014; and
- (c) Staff shall file and serve any reply submissions on sanctions and costs by May 2, 2014;

AND WHEREAS on May 5, 2014, counsel for the Respondents requested an appearance before the Commission to seek permission for the late delivery of the Respondents' written submissions on sanctions and costs;

AND WHEREAS on May 6, 2014, Staff and counsel for the Respondents attended before the Commission, at which time counsel for the Respondents advised the Commission that he required additional time to May 16, 2014 to complete his clients' written submissions on sanctions and costs, and therefore the Respondents sought an adjournment of the hearing on sanctions and costs scheduled for May 7, 2014;

AND WHEREAS on May 6, 2014, Staff objected to a further adjournment of the hearing on sanctions and costs;

AND WHEREAS on May 6, 2014, the Commission ordered that:

- (a) the hearing to determine sanctions and costs be adjourned and shall be held on June 23, 2014 at 10:00 a.m.;
- (b) the Respondents shall file and serve written submissions on sanctions and costs by June 9, 2014; and
- (c) Staff shall file and serve any reply submissions on sanctions and costs by June 16, 2014;

AND WHEREAS on June 16, 2014, Staff filed and served the Affidavit of Marcel Tillie sworn on June 16, 2014;

AND WHEREAS on June 20, 2014, the Respondents filed and served their written submissions, the Affidavit of Gino Arconti sworn on June 20, 2014 and a Sanction and Cost Submissions Brief;

AND WHEREAS on June 23, 2014, Staff and counsel for the Respondents attended at a hearing to consider

AND WHEREAS on June 23, 2014, a hearing to consider sanctions and costs in this matter was held before the Commission, Staff and counsel for the Respondents made oral submissions, and Flavio Arconti and Gino Arconti attended in person;

AND WHEREAS on September 11, 2014, the Commission released its Reasons and Decision on Sanctions and Costs with respect to the Respondents;

AND WHEREAS, upon considering the submissions of Staff and the Respondents on the appropriate sanctions and costs, the Commission is of the opinion that the following Orders are in the public interest;

IT IS HEREBY ORDERED that:

- (a) pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities by the Respondents shall cease permanently;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by the Respondents shall be prohibited permanently;
- (c) pursuant to paragraph 3 of subsection 127(1) of the *Act*, any exemptions contained in Ontario securities law shall not apply to the Respondents permanently;
- (d) pursuant to paragraph 6 of subsection 127(1) of the *Act*, the Respondents are

reprimanded;

- (e) pursuant to paragraph 7 of subsection 127(1) of the *Act*, Flavio Arconti and Gino Arconti shall resign any position that they hold as a director or officer of an issuer;
- (f) pursuant to paragraph 8 of subsection 127(1) of the *Act*, Flavio Arconti and Gino Arconti shall be prohibited permanently from becoming or acting as a director or officer of any issuer;
- (g) pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Flavio Arconti and Gino Arconti shall be prohibited permanently from becoming or acting as a director or officer of a registrant;
- (h) pursuant to paragraph 8.4 of subsection 127(1) of the *Act*, Flavio Arconti and Gino Arconti shall be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;
- (i) pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, the Respondents shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;
- (j) pursuant to paragraph 9 of subsection 127(1) of the *Act*, NAC, Flavio Arconti and Gino Arconti shall each pay an administrative penalty of \$600,000 for their non-compliance with Ontario securities law, to be designated for allocation or use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*;
- (k) pursuant to paragraph 10 of subsection 127(1) of the *Act*, Flavio Arconti and Gino Arconti shall, on a joint and several basis, disgorge to the Commission a total of \$2,052,691.16 obtained as a result of their non-compliance with Ontario securities law, to be designated for allocation or use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*;
- (l) pursuant to paragraph 10 of subsection 127(1) of the *Act*, NAC, Flavio Arconti and Gino Arconti shall, on a joint and several basis, disgorge to the Commission a total of \$1,042,000 obtained as a result of their non-compliance with Ontario securities law, to be designated for allocation or use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*;
- (m) pursuant to subsection 127.1 of the *Act*, NAC, Flavio Arconti and Gino Arconti

shall jointly and severally pay \$200,000 for the costs incurred in the investigation and hearing of this matter.

DATED at Toronto this 11th day of September 11, 2014.

“James D. Carnwath”

James D. Carnwath, Q.C.