

**IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c. S.5, as amended**

- and -

**WATT CARMICHAEL INC., ROGER D. ROWAN,
HARRY J. CARMICHAEL AND G. MICHAEL MCKENNEY¹**

**AMENDED STATEMENT OF ALLEGATIONS OF STAFF
OF THE ONTARIO SECURITIES COMMISSION**

Further to a Notice of Hearing issued on July 28, 2006, Staff of the Ontario Securities Commission (“Staff”) make the following allegations:

The Respondents

1. Watt Carmichael Inc. (“Watt Carmichael”) is registered as a broker and investment dealer under the Act, and is a participating organization of the Toronto Stock Exchange (the “TSX”) and a member of the Investment Dealers Association of Canada (the “IDA”).
2. Roger D. Rowan (“Rowan”) is, and was at all material times, the President and Chief Operating Officer of Watt Carmichael. Rowan was a director of Biovail from 1997 until his resignation in 2005 and was therefore, during that time, an insider of Biovail. Rowan also served as a member of the Biovail audit committee during his appointment as a director of Biovail.

¹ On May 18, 2007, the Commission approved a settlement agreement reached with Eugene N. Melnyk who had originally been named as a Respondent in this proceeding.

3. Rowan is, and was at all material times, the registered representative at Watt Carmichael with responsibility for trading in certain accounts, referred to below as the Conset, Congor and Southridge Accounts. As at December 31, 2005, Rowan owned approximately 29% of Watt Carmichael.

4. Harry J. Carmichael (“Carmichael”) is, and was at all material times, the Chairman and CEO of Watt Carmichael, as well as its Ultimate Designated Person. As at December 31, 2005, Carmichael owned approximately 44% of Watt Carmichael.

5. G. Michael McKenney (“McKenney”) is, and was at all material times, registered as the Chief Compliance Officer and Chief Financial Officer of Watt Carmichael.

Eugene Melnyk

6. Eugene N. Melnyk (“Melnyk”) is the Chairman of the Board of Directors of Biovail Corporation (“Biovail”). From December 2001 to October 2004, Melnyk was Chairman and Chief Executive Officer of Biovail. Melnyk resigned as CEO of Biovail on October 8, 2004. Melnyk became Executive Chairman of the Board in November 2004 and relinquished this title on June 27, 2006. He has been a director of Biovail since March 1994. Melnyk is, and was at all material times, an insider of Biovail.

Biovail Corporation

7. Biovail is a reporting issuer in the province of Ontario within the meaning of subsection 1(1) of the *Securities Act* (the “Act”). The common shares of Biovail are listed and posted for trading on the TSX and the New York Stock Exchange.

The Cayman Trusts

8. In 1996, Eugene Melnyk established the following trusts: the Conset Trust, the Congor Trust, the Southridge Trust, and the Archer Trust (collectively referred to as the “Trusts”). Melnyk was the settlor of the Trusts, and he was also listed as a beneficiary in the Deeds of Settlement for the Trusts. Other beneficiaries included family members (including his wife and children) and certain friends of Melnyk. The trustees for each of the Trusts are professional corporations located in the Cayman Islands (the “Trustees”).

9. The assets of the Trusts are held by investment companies and primarily consist of Biovail shares. The investment companies are: Conset Investments Limited (“Conset”), Congor Investments Limited (“Congor”), Southridge Management Limited (“Southridge”) and Archer Investments Limited (“Archer”) (collectively, the “Investment Companies”). The Investment Companies were incorporated under the laws of the Cayman Islands.

10. In 1996, Melnyk caused the transfer of over 1,100,000 Biovail shares to each of the Investment Companies from holdings of Biovail shares over which he exercised control or direction. In September of 1996, over 4 million additional shares were transferred to the Trusts, representing approximately 19% of the outstanding shares of Biovail at that time.

The Trusts’ Trading Accounts

11. In 1996, trading accounts were opened at Watt Carmichael for Congor (the “Congor Account”), Conset (the “Conset Account”), Southridge (the “Southridge Account”) and Archer (the “Archer Account”). The Archer Account was later transferred to BMO Nesbit Burns. The Congor, Conset and Southridge Accounts at Watt Carmichael are referred to collectively as the “Watt Carmichael Accounts”.

12. Rowan is the registered representative for the Congor, Conset and Southridge Accounts. At all material times, while he was an insider of Biovail, Rowan exercised discretionary trading authority over the Congor, Conset and Southridge Accounts. The Southridge Account, however, was never documented as a discretionary trading account.

13. In addition, Biovail repurchased its own shares during its 2002 Normal Course Issuer Bid through a brokerage account held at Watt Carmichael. Rowan was the registered representative for Biovail’s account at Watt Carmichael. Rowan was also the registered representative for personal trading accounts held at Watt Carmichael by Melnyk and his wife.

Rowan's Control or Direction over Biovail Securities

14. During 2002, 2003, and 2004 Rowan exercised or shared control or direction in relation to trading in the common shares of Biovail and Biovail call options in the Congor and Conset Accounts. As noted above, at all material times, while Rowan was a director of Biovail, he exercised discretionary trading authority over the Congor and Conset Accounts.

15. During 2002, while he was an insider of Biovail, Rowan engaged in the following discretionary trading in Biovail securities for the Conset and Congor Accounts:

(a) Rowan purchased in excess of 4,800,000 Biovail common shares at a cost of approximately U.S. \$170,000,000, and sold in excess of 4,800,000 Biovail common shares for proceeds of approximately U.S. \$160,000,000 in the Conset Account;

(b) Rowan purchased in excess of 9,000 Biovail call options at a cost of approximately U.S. \$4,000,000 in the Conset Account; and

(c) Rowan purchased in excess of 1,700,000 Biovail common shares at a cost of approximately U.S. \$70,000,000, and sold in excess of 1,500,000 Biovail common shares for proceeds of approximately U.S. \$60,000,000 in the Congor Account.

16. Similarly, during 2003, while Rowan was an insider of Biovail, he engaged in the following discretionary trading in Biovail securities for the Conset and Congor Accounts:

(a) Rowan purchased in excess of 7,800,000 Biovail common shares at a cost of approximately U.S. \$265,000,000, and sold in excess of 8,800,000 Biovail common shares for proceeds of approximately U.S. \$290,000,000 in the Conset Account;

(b) Rowan purchased in excess of 12,000 Biovail call options at a cost of approximately U.S. \$4,000,000 in the Conset Account;

(c) Rowan exercised Biovail call options to purchase in excess of 900,000 Biovail common shares at a cost of approximately U.S. \$25,000,000 in the Conset account; and

(d) Rowan purchased in excess of 25,000 Biovail common shares at a cost of approximately U.S. \$1,000,000, and sold in excess of 650,000 Biovail common shares for proceeds of approximately \$25,000,000 in the Congor Account.

17. During 2004, while Rowan was an insider of Biovail, he engaged in the following discretionary trading in Biovail securities for the Conset and Congor Accounts:

(a) Rowan purchased in excess of 150,000 Biovail shares at a cost of approximately U.S. \$2,000,000, and sold in excess of 350,000 Biovail shares for proceeds of approximately \$6,000,000 in the Conset Account; and

(b) Rowan sold 1,700 Biovail shares for proceeds in excess of U.S. \$30,000 in the Congor Account.

Rowan's Trading in Southridge Account

18. During 2002, 2003, and 2004, while Rowan was an insider of Biovail, he engaged in the following trading in Biovail securities for the Southridge Account:

(a) Rowan purchased in excess of 600,000 Biovail common shares at a cost of approximately U.S. \$25,000,000, and sold in excess of 700,000 Biovail common shares for proceeds of approximately U.S. \$30,000,000 during 2002;

(b) Rowan purchased in excess of 3,500 Biovail call options (in respect of common shares of Biovail) at a cost of approximately U.S. \$2,000,000 during 2002;

(c) Rowan purchased in excess of 800,000 Biovail common shares at a cost of approximately U.S. \$25,000,000 and sold in excess of 800,000 Biovail common shares for proceeds of approximately U.S. \$25,000,000 during 2003; and

(d) Rowan sold in excess of 375,000 Biovail common shares at a cost of approximately U.S. \$8,000,000 during 2004.

19. Rowan purported to exercise discretionary trading authority in relation to trading in Biovail securities held in the Southridge Account. In fact, Rowan was not authorized to engage in discretionary trading, and the account was not documented as a discretionary trading account.

Commissions from Trading in Watt Carmichael Accounts

20. During 2002, commissions in excess of \$900,000 were generated in the Watt Carmichael Accounts as a result of Rowan's trading activity. In 2003, this figure was over \$1,400,000 and in 2004 this figure was over \$50,000. Watt Carmichael received the commissions generated by these accounts. As a 29% shareholder of Watt Carmichael, Rowan benefited substantially from these commissions.

Reporting Requirements under Ontario Securities Law

21. Section 107 of the Act requires insiders to file insider reports in respect of securities of reporting issuers over which the insiders have "beneficial ownership" or "control or direction".

22. Specifically, section 107 of the Act provides as follows:

(1) A person or company who becomes an insider of a reporting issuer other than a mutual fund, shall, within ten days from the day that he, she or it becomes an insider, or such shorter period as may be prescribed by the regulations, file a report as of the day on which he, she or it became an insider disclosing any direct or indirect beneficial ownership of or control or

direction over securities of the reporting issuer as may be required by the regulations.

(2) An insider who has filed or is required to file a report under this section or any predecessor section and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in the report or in the latest report filed by the person or company under this section or any predecessor section shall, within 10 days from the day on which the change takes place, or such shorter period as may be prescribed by the regulations, file a report of direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as of the day on which the change took place and the change or changes that occurred, giving any details of each transaction as may be required by the regulations.

23. The term “insider” is defined in subsection 1(1) of the Act to include a director and senior officer of the reporting issuer, as well as any person who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the voting securities of the reporting issuer.

Rowan’s Failure to File Insider Reports under Section 107 of the Act

24. As noted above, Rowan was an insider of Biovail. Rowan exercised or shared control or direction in relation to the trading of the securities in Biovail in the Watt Carmichael Accounts. Subsection 107(2) of the Act required Rowan to file a report of each change in the holdings of Biovail securities held in each of the Congor, Conset and Southridge Accounts within ten days of the day the change took place.

25. While an insider of Biovail, Rowan executed numerous trades in the Congor, Conset and Southridge Accounts, as particularized above. Rowan repeatedly breached the requirements contained in Ontario securities law by failing to file any insider reports in respect of the numerous trades executed in 2002, 2003 and 2004 contrary to subsection 107(2) of the Act. Rowan has not filed any insider reports in relation to these trades to date.

Rowan's Unauthorized Trading in the Southridge Account

26. Rowan purported to exercise discretionary trading authority in the Southridge Account as described above. In fact, Rowan did not have discretionary trading authority over the Southridge Account. Rowan therefore engaged in improper trading contrary to the Know Your Client requirements set out in subsection 1.5(1) of OSC Rule 31-505 and contrary to the public interest.

Biovail Management Proxy Circulars

27. In May of 2002, 2003 and 2004, Biovail issued management information circulars. The purpose of these circulars was to solicit proxies for its annual meetings of shareholders held on June 25, 2002, June 20, 2003, and June 25, 2004 respectively.

28. Biovail was required to send these circulars by clause 86(1)(a) of the Act. At the time, section 176 of Ontario Regulation 1015 to the Act required an information circular to contain the information prescribed by Form 30 (now Form 51-102F5 under National Instrument 51-102 *Continuous Disclosure Obligations*).

29. Item 5 (para. vii) of Form 30 required disclosure of the following information:
State the number of securities of each class of voting securities of the reporting issuer or of any subsidiary of the reporting issuer beneficially owned, directly or indirectly or over which control or direction is exercised by each proposed director.

Rowan's Failure to make Disclosures in Biovail Management Proxy Circulars

30. As a director, Rowan was required to provide complete and accurate information to Biovail to be disclosed in its 2002 Circular. The 2002 Circular stated that Rowan beneficially owned directly or indirectly or exercised control or direction over 1,217,953 Biovail common shares as at April 30, 2002. However, as at April 30, 2002, Rowan exercised or shared control or direction over, at least, an additional 3,982,102 Biovail common shares held in the Watt Carmichael Accounts.

31. Rowan was required to provide complete and accurate information to Biovail to be disclosed in its 2003 Circular. The 2003 Circular stated that Rowan beneficially owned directly or indirectly or exercised control or direction over 1,190,403 Biovail common shares as at April 30, 2003. However, as at April 30, 2003, Rowan exercised or shared control or direction over, at least, an additional 3,000,966 Biovail common shares in the Watt Carmichael Accounts.

32. Rowan was required to provide complete and accurate information to Biovail to be disclosed in its 2004 Circular. The 2004 Circular stated that Rowan beneficially owned directly or indirectly or exercised control or direction over 692,366 Biovail common shares as at April 30, 2004. However, as at April 30, 2004, Rowan exercised or shared control or direction over, at least, an additional 4,040,166 Biovail common shares in the Watt Carmichael Accounts.

33. Rowan engaged in conduct that was contrary to the public interest and contrary to Ontario securities law when he failed to provide complete and accurate information to Biovail concerning the number of Biovail common shares over which he exercised control or direction. As a result of Rowan's failure to disclose this information, the disclosure contained in Biovail's management proxy circulars between 2002 and 2004 was misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements in the circulars not misleading.

Rowan's Trading During Biovail Blackout Periods

34. Biovail adopted a policy effective December 5, 2001 entitled "Insider Trading, Reporting and Blackout Policy". The Biovail Insider Trading, Reporting and Blackout Policy stated, among other things, that:

It is illegal for any director, officer or employee of the Company or any subsidiary of the Company to trade in the securities of the Company while in the possession of material non-public information concerning the Company.

It is also illegal for any director, officer or employee of the Company to give material non-public information to others who may trade on the basis of that information. In order to comply with applicable securities laws governing (i) trading in Company securities while in the possession of material non-public information concerning the Company and (ii) tipping or disclosing material non-public information to outsiders, and in order to prevent the appearance of improper trading or tipping, the Company has adopted this Insider Trading Policy for all of its directors, officers and employees, members of their families and others living in their households, and investment partnerships and other entities (such as trusts and corporations) over which such directors, officers or employees have or share voting or investment control.

Directors, officers and employees are responsible for ensuring compliance by their families and other members of their households and entities over which they exercise voting or investment control.

This Insider Trading Policy applies to any and all transactions in the Company's securities, including its common shares and options to purchase common shares, warrants and any other type of securities that the Company may issue in the future.

....

Black-Out Periods

There is a mandatory seven (7) days blackout period for all employees of the Company prior to the release of quarterly and annual financial statements which shall continue until two (2) trading days after the time such information has been released to the public.

...

... Accordingly, effectively immediately, if any Member of the Board, Corporate Officer or Divisional Officer, intends to trade in the Company's shares, such person must inform either the Chairman of the Board or the Chief Legal Officer in advance so that a determination may be made as to whether there is any corporate reason to prevent such trading.

35. During 2002, there were three periods in which members of the Biovail Board of Directors were prohibited by this policy from trading in Biovail securities ("Biovail Blackout Periods"). The Biovail Blackout Periods in 2002 were as follows: February 7 to April 29, 2002; July 16, 2002 to July 29, 2002; and October 18, 2002 to October 31, 2002.

36. During 2003, there were four Biovail Blackout Periods. These were: February 21, 2003 to March 6, 2003; April 18, 2003 to May 1, 2003; July 14, 2003 to July 31, 2003; and September 30, 2003 to November 3, 2003.

37. In 2002, Rowan engaged in discretionary trading of Biovail common shares in the Conset, Congor and Southridge Accounts at Watt Carmichael during each of the Biovail Blackout Periods. Specifically, there were acquisitions in excess of 2,000,000 Biovail common shares at a cost of approximately U.S. \$100,000,000, and dispositions in excess of 2,000,000 Biovail common shares for proceeds of approximately U.S. \$90,000,000 during the 2002 Blackout Periods.

38. In 2003, Rowan engaged in discretionary trading of Biovail common shares in the Conset, Congor, and Southridge Accounts at Watt Carmichael during each of the Biovail Blackout Periods. Specifically, there were acquisitions in the Watt Carmichael Accounts in excess of 2,200,000 Biovail common shares at a cost of approximately U.S. \$75,000,000, and acquisitions of 10,000 Biovail call options for proceeds of approximately U.S. \$4,000,000. Further, 300,000 Biovail call options were exercised at a cost of approximately U.S. \$10,000,000, and in excess of 2,700,000 Biovail common shares were sold from the Watt Carmichael Accounts for proceeds of approximately U.S. \$90,000,000.

Rowan's Insider Trading

39. Section 76(1) of the Act prohibits trading by insiders with knowledge of material facts with respect to the reporting issuer that have not been generally disclosed. National Policy 51-201 *Disclosure Standards* provides guidance on best disclosure practices to ensure that everyone investing in securities has equal access to information which may affect their investment decisions. OSC Policy 33-601 provides registrants with *Guidelines for Policies and Procedures Concerning Inside Information* and Multilateral Policy 34-202 also provides guidance to *Registrants Acting as Corporate Directors*.

40. Rowan attended a number of board and audit committee meetings and received material undisclosed information concerning Biovail prior to and/or at the time of certain of these meetings. In particular, during 2002 and 2003, Rowan received the Biovail management reports in relation to the upcoming release of Biovail's quarterly earnings results.

41. Rowan breached the requirements contained in subsection 76(1) of the Act in that he traded Biovail shares held in the Congor, Conset and Southridge Accounts at times when he had knowledge of material undisclosed information contained in the management reports.

42. Specifically, Rowan engaged in the following trading of Biovail securities at times when he had knowledge of material undisclosed information contained in the management reports:

- (a) between February 19 and February 21, 2002, 20,000 shares were purchased in and sold from the Conset Account and 45,000 shares were purchased in the Southridge Account;
- (b) between April 23 and April 25, 2002, 681,500 shares were purchased in the Congor, Conset and Southridge Accounts. 45,000 shares were sold from the Congor Account, 35,000 shares were sold from the Conset Account and 33,000 shares were sold from the Southridge Account;
- (c) on July 24, 2002, 59,000 shares were sold from the Conset Account;
- (d) on March 3, 2003, 172,600 shares were purchased in the Conset Account; and
- (e) between April 25 and April 29, 2003, 56,300 shares were purchased in the Conset Account.

Watt Carmichael and Rowan Materially Misled the IDA

43. On January 21, 2000, the IDA notified Watt Carmichael that it had completed a sales compliance review. In the course of this review, the IDA had requested various documents and information concerning the Conset and Congor Accounts. Specifically, the IDA had requested that Watt Carmichael provide copies of the trust agreements for both the Conset and Congor Accounts and that it state the identity of the beneficial owners of these accounts.

44. On May 24, 2000, the IDA requested further information from Watt Carmichael in relation to these items. In its request, the IDA wrote:

“... As mentioned in our 1999 SCR [Sales Compliance Review of Watt Carmichael] the activities surrounding Mr. Eugene Melnyk’s involvement in the Conset and Congor accounts do raise concerns regarding the beneficial ownership of these accounts since it appears that the Biovail holdings in these accounts may form part of Mr. Melynk’s control position.

... In addition, please forward any further documents that would identify the beneficial owners of the Conset and Congor accounts and documents to ascertain whether the Biovail holdings in these accounts form part of Mr. Melnyk’s control position in Biovail.”

45. On June 7, 2000, Rowan sent a memo to Melnyk enclosing a copy of the IDA’s May 24, 2000 request. In the memo, Rowan wrote:

“...Eugene, can we provide the IDA with some suitable response to get them to go away....If you do not wish to disclose the beneficiaries to the IDA (I don’t see any harm in doing so), is there some declaration we can provide the IDA which states that Eugene Melnyk is not a beneficiary of the trust and therefore has no beneficial ownership in them. If we can provide the above, I am confident that we can get the IDA to go away. Please call me regarding this.”

46. At the time of the Rowan’s memo, Melnyk was listed as a beneficiary in the deeds of settlement for each of the Congor and Conset Trusts. Subsequent to Rowan’s memo, Melnyk attempted to secure written confirmation from the Congor and Conset Trustees that he was not a beneficiary of either of the Congor or Conset Trusts.

47. In response to these requests, Melnyk received a letter from the Congor Trustees dated July 17, 2000 listing Melnyk as a beneficiary of the Congor Trust, as well as members of Melnyk’s family and several of his friends.

48. The Conset Trustees also responded on July 17, 2000 with a letter listing the beneficiaries of that trust, which included members of Melnyk’s family and several of his

friends, but did not include Melnyk. At that time, however, the Conset deed of settlement specifically listed Melnyk as a beneficiary of the Conset trust.

49. On July 17, 2000, Melnyk forwarded the letters from the Congor and Conset Trustees to Rowan.

50. In letters dated July 24, 2000 from Melnyk to each of the Conset and Congor Trustees, Melnyk purported to revocably disclaim his interest in the Conset and Congor Trusts. In particular, Melnyk's letter stated:

“Please note that this disclaimer of interest is revocable and may be revoked by me by letter in writing to you.”

51. On August 1, 2000, Melnyk's U.S. counsel provided Watt Carmichael with a letter addressed to the IDA (the “August Letter”), which stated that:

“Under the law of Cayman Islands, which governs those trusts, the identity of the beneficiaries of the Trusts is a matter of strictest confidence. Nonetheless, we have recently received written confirmation from each of the respective trustees of the Congor Trust and the Conset Trust regarding the current beneficiaries to the Trusts, and we have been authorized to confirm that Eugene Melnyk is not a beneficiary of either Trust. Nor, of course, is he a trustee of the Trusts.”

52. On August 10, 2000, rather than providing the IDA with the lists of the beneficiaries of the Conset and Congor Trusts, as described in paragraphs 47 and 48 above, Watt Carmichael produced only the August Letter.

53. Rowan, as President of Watt Carmichael and the registered representative for the Congor and Conset Accounts, engaged in conduct contrary to the public interest. Specifically, having regard to information requested by the IDA, and the information available to Rowan concerning the identity of the beneficiaries as set out in letters from the Congor and Conset trustees dated July 17, 2000, Rowan knew or should have known that the August Letter provided responses that were misleading or untrue or did not state facts that were required to be stated to make the statements not misleading.

Rowan Materially Misled OSC Staff

54. During Rowan's examination under oath by OSC Staff on February 9, 2005, he was asked to identify the beneficial owner of Conset Investments. Rowan responded: "My understanding is there are a number of beneficiaries of the Trust. I don't have the list of beneficiaries". In fact, Rowan had in his possession or control the letter dated July 17, 2000 from the Conset Trustees to Melnyk listing the beneficiaries of the Conset Trust, as described in paragraph 47 above. This information was not provided to OSC Staff at the time of Rowan's examination.

Failure to Supervise Rowan

55. Rule 31-505 of Ontario securities law, IDA Regulation 1300.2 and IDA Policy No. 2 require IDA members to supervise trading in client accounts and to implement procedures and policies to ensure that client accounts are supervised. Section 3.1 of Rule 31-505 provides as follows:

"A registered dealer shall supervise each of its registered salesperson, officer and partner and a registered adviser shall supervise each of its registered officers and partners in accordance with Ontario securities law and terms or conditions imposed by the Director of the Commission on the registration of the salesperson, officer or partner of the dealer or the officer or partner of the advisor requiring that the actions of the registered salesperson, officer or partner of the registered dealer or the registered officer or partner of the registered adviser be supervised in a particular manner."

56. Further, IDA Regulation 1300.2 provides as follows:

"Each member shall designate a director, partner or officer of, in the case of a branch office, a branch manager reporting directly to the designated director, partner or officer who shall be responsible for the opening of new accounts and the supervision of account activity. Each such designated person shall be approved by the applicable District Council and, where necessary to ensure continuous supervision, the Member may appoint one or more alternates to such designated person who shall be so approved. The director, partner or officer as the case may be, shall be responsible for establishing and maintaining procedures for account supervision and such persons, or in the case of a branch office, the branch manager shall ensure that the handling of client business is within the bounds of ethical conduct consistent with just and

equitable principles of trade and not detrimental to the interests of the securities industry.”

57. Watt Carmichael did not adequately supervise Rowan’s trading in Biovail securities in the Congor, Conset and Southridge Accounts. Carmichael, in his capacity as Chairman and CEO, and McKenney, in his capacity as Chief Compliance Officer, failed to adequately supervise trading by Rowan and to address conflicts of interest despite indications that supervision was required.

58. Specifically, Carmichael and McKenney knew or should have known that:

(a) Rowan had multiple roles as a director of Biovail and member of Biovail’s audit committee, and as the President of Watt Carmichael and the registered representative for the Congor, Conset and Southridge Accounts;

(b) Rowan engaged in discretionary trading in Biovail securities in 2002 and 2003 in the Congor, Conset and Southridge Accounts and therefore, Rowan, as an insider of Biovail, had reporting obligations under subsection 107(2) of the Act; and

(c) Rowan was required to cease trading in Biovail securities during the Biovail Blackout Periods. Rowan continued to engage in trading of Biovail securities in the periods prior to release of Biovail’s quarterly earnings in 2002 and 2003 in circumstances where Rowan had knowledge, or potentially had knowledge, of material undisclosed information when he traded in Biovail securities.

59. As described above, Watt Carmichael’s letter to the IDA dated August 10, 2000 (enclosing the August Letter) provided responses to the IDA that were misleading or untrue or did not state facts that were required to be stated to make the statements not misleading.

Conduct Contrary to the Public Interest

60. Staff allege that the conduct set out above of Rowan, Watt Carmichael, Carmichael and McKenney violated Ontario securities law as specified and constituted conduct contrary to the public interest.

61. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 5th day of June, 2007.