



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 MONCASA CAPITAL CORPORATION
and JOHN FREDERICK COLLINS**

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

Staff of the Ontario Securities Commission (the “Commission”) make the following allegations:

I. OVERVIEW

1. This proceeding relates to the sale of securities of Moncasa Capital Corporation (“Moncasa”) by the Respondents to 54 investors throughout Canada, raising approximately \$1,200,000. Between April 1, 2008 and May 16, 2011 (the “Relevant Period”), the Moncasa securities were sold to investors in breach of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the “Act”) and in a manner that was contrary to the public interest.

II. THE RESPONDENTS

2. Montcasa Corporation was an Ontario corporation incorporated on January 3, 2008. Articles of Amendment of Montcasa Corporation were subsequently filed, and the company's name was changed to Moncasa effective April 10, 2008. Neither Montcasa nor Moncasa have ever been registered with the Commission in any capacity.

3. John Frederick Collins (“Collins”) is a resident of Pickering, Ontario and is the sole director of Moncasa (and was the sole director of Montcasa). Collins was not registered in any capacity with the Commission during the Relevant Period, although he was registered as a salesperson with C.J. Elbourne Securities Inc. from February 2, 1994 to November 21, 1997 and with Marchment & Mackay Limited from November 28, 1997 to June 30, 2000.

III. ILLEGAL DISTRIBUTION OF MONCASA SHARES TO THE PUBLIC AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

4. In order to sell Moncasa securities, Collins and several unregistered and commissioned sales persons hired by him, contacted potential investors by telephone. All the investors were “cold called”, some from a potential investor list purchased by Moncasa.

5. Moncasa investors were led to believe that their investment would be used to purchase luxury vacation properties in the Caribbean that would be available for rental purposes through a related Moncasa vacation club membership. Moncasa’s website, www.moncasacapital.com, solicited investors to invest in Moncasa and created the illusion that Moncasa had multiple vacation properties available for use.

6. Investors were advised that units comprised of one common share of Moncasa and a common share purchase warrant, exercisable into common shares until six months from the closing date of the subscription. Additional funds were raised from new investors pursuant to subscription agreements. The additional subscriptions were purportedly accepted by a special resolution of the Board of Directors of Moncasa, of which Collins is the sole director.

7. After agreeing to invest, subscription agreements were sent to investors setting out the quantity, unit price and total amount of investment. Cheques were made payable and sent to Moncasa at 1 Yonge Street, Suite 1801, Toronto, Ontario, which was an office space rented by Collins. Investors received a share certificate signed by Collins for common shares in Moncasa.

8. Of the approximately \$1,200,000 raised from investors,

- (a) less than 6% (USD\$69,052.50) was used to purchase a single four-week time share condominium property in a Dominican Republic resort (the “Property”);
- (b) at least \$318,500 went to Collins to pay for personal expenses, personal credit card payments including interest charges, car payments and cash withdrawals; and
- (c) the balance was spent on purported business expenses including salaries, commissions to sales persons, rent, advertising, marketing as well as legal fees relating to, amongst other things, the failed purchase of an exempt market dealer.

9. Requests from investors to return their investment have been ignored and as of May 16, 2011, all but \$7,650.00 of funds raised investors had been expended and Moncasa did not own any properties.

10. By engaging in the conduct described above, the Respondents sold shares of Moncasa to Ontario residents and to residents throughout Canada, in circumstances where there were no exemptions available to them under the Act. Through these acts, the Respondents traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so in circumstances in which no exemption was available, contrary to subsection 25(1) of the Act and contrary to the public interest.

11. The sales of Moncasa shares were trades in securities not previously issued and were therefore distributions. Contrary to subsection 53(1) of the Act and contrary to the public interest, Moncasa has never filed a preliminary prospectus or a prospectus with the Commission, and no prospectus receipt has ever been issued to qualify the sale of those shares.

IV. FRAUDULENT CONDUCT AND CONDUCT CONTRARY TO THE PUBLIC INTEREST OF MONCASA AND COLLINS

12. Moncasa and Collins engaged in a course of conduct relating to securities that they knew or reasonably ought to have known would result in a fraud on potential investors, contrary to section 126.1 of the Act and/or contrary to the public interest, as follows:

a) Misrepresentations to investors

13. During the sale of the shares of Moncasa, the Respondents made representations and provided information to potential investors orally, in marketing materials and on its website that were inaccurate and misleading, in an attempt to induce potential investors to purchase Moncasa shares.

14. In particular, the Respondents advised investors orally and/or in marketing materials that Moncasa would be investing in and developing vacation properties in the Caribbean, when in fact only USD\$69,052.50 of the \$1,200,000 raised had been invested in acquiring properties. Investors were also advised that the company had acquired "three unique residences", when in fact Moncasa had only acquired the use of the Property for four (4) one week periods, on an annual basis.

15. The Property was never made available for rent or use to investors or the public and generated no income. The Property subsequently became the subject of an unrelated legal dispute and Moncasa no longer has ownership over the Property or any other properties.

16. In addition, Moncasa's web site displayed logos of large, international hotel chains (such as The Ritz Carlton, Westin Hotels and Four Seasons) creating the illusion that Moncasa had a business relationship with these companies, when it did not. Further, Moncasa's web site displayed pictures of various resort locations and floor plan layouts creating the illusion that Moncasa owned these properties and they were available for use, when Moncasa did not own such properties and they were not available to be used.

17. Further, in order to induce investors to invest in Moncasa and with the intention of effecting trades in the Moncasa shares, Collins made undertakings to potential investors regarding the future value or price of the Moncasa shares and made representations regarding Moncasa's shares being listed on a stock exchange, contrary to subsections 38(2) and (3) of the Act and contrary to the public interest. Collins has never taken any steps to take Moncasa public.

b) Misappropriation of Investor Funds/Failure to Keep Proper Books and Records

18. Moncasa's only source of funds were funds obtained from investors. Once in possession of funds from investors, Collins misappropriated the funds by:

- (a) using the funds to pay for personal expenses;
- (b) transferring funds to another corporation owned by him that performed no services for Moncasa;
- (c) making sizable cash withdrawals from Moncasa's corporate account; and
- (d) co-mingling investor funds with his personal funds.

19. By engaging in the conduct described above, Collins failed to keep books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, contrary to section 19 of the Act and contrary to the public interest.

c) Employment Of Abel Da Silva: Also Known As “Jim Wilson”

20. Collins employed several salespeople to sell Moncasa securities to investors, including Abel Da Silva (“Da Silva”). When acting as a salesperson for Moncasa, Da Silva used the alias “Jim Wilson”.

21. Da Silva was never registered in any capacity with the Commission. He is the subject of several cease trade orders imposed by the Commission and has been previously sanctioned by the Commission and by the Ontario Court of Justice for various breaches of securities laws.

22. On February 22, 2012, Da Silva pled guilty, in the Ontario Court of Justice, to using an alias while trading in shares of Moncasa without registration and without a prospectus, and in breach of three separate cease trade orders issued by the Commission against him. Da Silva admitted that, between April 1, 2008 and September 30, 2008, he was employed by Moncasa and paid approximately 20% in cash for sales commissions.

V. COLLINS MISLED STAFF

23. Collins advised Staff that he employed an individual by the name of Jim Wilson. Collins further advised Staff that “Abel” was a nickname used by Jim Wilson, notwithstanding that Collins knew or ought to have known that (a) “Jim Wilson” was Da Silva; and (b) Da Silva sold Moncasa securities using the alias “Jim Wilson”.

24. Collins also misled Staff by advising Staff (both in sworn testimony and in his Report of Exempt Distribution (OSC Form 45-106) filed with the Commission) that he did not pay commissions to any of the salespersons employed by Moncasa, notwithstanding that commissions were in fact paid.

25. As a consequence of the foregoing conduct, Collins materially misled Staff in respect of the sale of the shares of Moncasa, contrary to subsection 122(1)(a) of the Act and contrary to the public interest.

VI. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

26. Staff allege that the foregoing conduct engaged in by the Respondents constituted breaches of Ontario securities law and/or was contrary to the public interest. In particular:

- (a) The Respondents failed to keep books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, contrary to section 19 of the Act and contrary to the public interest;
- (b) The Respondents traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so in circumstances in which no exemption was available, contrary to subsection 25(1)(a) of the Act as that subsection existed at the time the conduct at issue commenced on April 1, 2008, contrary to subsection 25(1) of the Act as subsequently amended on September 28, 2009 and contrary to the public interest;
- (c) The Respondents traded in Moncasa shares without the required prospectus receipt or appropriate exemption, contrary to subsection 53(1) of the Act and contrary to the public interest;
- (d) Collins made prohibited representations concerning the future listing and future value of shares in order to effect sales of Moncasa shares, contrary to subsection 38(2) and (3) of the Act and contrary to the public interest;
- (e) Collins knowingly made statements and provided evidence and information to Staff that was materially misleading or untrue and/or failed to state facts which were required to be stated in an effort to hide the violations of Ontario securities laws and breaches of duty, in contravention of subsection 122(1)(a) of the Act and contrary to the public interest;
- (f) The Respondents made misleading or fraudulent misrepresentations to investors and misappropriated investors funds knowing or having reasonably ought to have known that they would result in a fraud on a person, contrary to section 126.1 of the Act and contrary to the public interest; and
- (g) As the sole officer and director of Moncasa, Collins has authorized, permitted or acquiesced in the breaches of sections 19, 25, 38, 53, 122 (1)(a) and 126.1 of the Act by Moncasa contrary to section 129.2 of the Act, and in so doing has engaged in conduct contrary to the public interest.

27. The course of conduct engaged in by the Respondents as described herein compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.

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

Dated at Toronto this 6th day of March, 2012.