



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF MAJD KITMITTO, STEVEN VANNATTA,
CHRISTOPHER CANDUSSO AND CLAUDIO CANDUSSO**

STATEMENT OF ALLEGATIONS
(Subsection 127(1) and Section 127.1
of the *Securities Act*, RSO 1990, c S.5)

A. ORDERS SOUGHT:

1. Staff of the Enforcement Branch (“Enforcement Staff”) of the Ontario Securities Commission (the “Commission”) request that the Commission make the following orders against:

(i) Majd Kitmitto (“Kitmitto”) and Steven Vannatta (“Vannatta”):

- (a) pursuant to paragraph 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), that Vannatta’s registration under Ontario securities law be terminated, or be suspended or restricted for such period as is specified by the Commission, or that terms and conditions be imposed on Vannatta’s registration;
- (b) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading by each of Kitmitto and Vannatta in any securities or derivatives cease permanently, or for such period as is specified by the Commission;
- (c) pursuant to paragraph 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by each of Kitmitto and Vannatta is prohibited permanently, or for such period as is specified by the Commission;

- (d) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to each of Kitmitto and Vannatta permanently, or for such period as is specified by the Commission;
- (e) pursuant to paragraph 6 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta be reprimanded;
- (f) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;
- (g) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta be prohibited from becoming or acting as directors or officers of any issuer, registrant, or investment fund manager, permanently, or for such period as is specified by the Commission;
- (h) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta be prohibited from becoming or acting as registrants, investment fund managers, or as promoters, permanently, or for such period as is specified by the Commission;
- (i) pursuant to paragraph 9 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta pay an administrative penalty of not more than \$1 million for each failure by each of them to comply with Ontario securities law;
- (j) pursuant to paragraph 10 of subsection 127(1) of the Act, that each of Kitmitto and Vannatta disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law;
- (k) pursuant to section 127.1 of the Act, that each of Kitmitto and Vannatta pay the costs of the Commission investigation and the hearing; and
- (l) such other order as the Commission considers appropriate in the public interest.

(ii) Christopher Candusso (“Christopher”) and Claudio Candusso (“Claudio”):

- (a) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading by each of Christopher and Claudio in any securities or derivatives cease permanently, or for such period as is specified by the Commission;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by each of Christopher and Claudio is prohibited permanently, or for such period as is specified by the Commission;
- (c) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to each of Christopher and Claudio permanently, or for such period as is specified by the Commission;
- (d) pursuant to paragraph 6 of subsection 127(1) of the Act, that each of Christopher and Claudio be reprimanded;
- (e) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, that each of Christopher and Claudio resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;
- (f) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, that each of Christopher and Claudio be prohibited from becoming or acting as directors or officers of any issuer, registrant, or investment fund manager, permanently, or for such period as is specified by the Commission;
- (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that each of Christopher and Claudio be prohibited from becoming or acting as registrants, investment fund managers, or as promoters, permanently, or for such period as is specified by the Commission;
- (h) pursuant to paragraph 9 of subsection 127(1) of the Act, that each of Christopher and Claudio pay an administrative penalty of not more than \$1 million for each failure by each of them to comply with Ontario securities law;

- (i) pursuant to paragraph 10 of subsection 127(1) of the Act, that each of Christopher and Claudio disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law;
- (j) pursuant to section 127.1 of the Act, that each of Christopher and Claudio pay the costs of the Commission investigation and the hearing; and
- (k) such other order as the Commission considers appropriate in the public interest.

B. FACTS:

2. Enforcement Staff make the following allegations of fact:

Overview

3. Ontario's securities laws prohibit insider tipping and trading to protect investors and the integrity of the province's capital markets. Anti-tipping and insider trading laws are designed to prevent unscrupulous insiders, and their family and friends, from gaining an unfair advantage because they have privileged access to valuable information. This case involves the very sort of misuse of inside information which the Act is designed to prevent.

4. The respondents in this case carried out illegal insider tipping and trading during the period April 25, 2014 to June 12, 2014 (the "Relevant Period").

5. Kitmitto, a senior analyst at Aston Hill Asset Management Inc. ("AHAMI"), disseminated material, non-public information about Amaya Gaming Group Inc. ("Amaya") to his officemate and friend, Vannatta, and to his roommate and friend, Christopher. Each of Vannatta and Christopher then traded in Amaya securities, and passed on the information to their relatives, including, in Christopher's case, his father Claudio.

6. Vannatta was a portfolio manager at AHAMI and is registered with the Commission. As a registrant, Vannatta has a duty to adhere to high standards of conduct. Vannatta failed to discharge this duty, not only by trading on material, non-public information, and tipping his relatives, but also by concealing his activities from his employer, and misleading Enforcement Staff.

The Respondents

7. Kitmitto is a resident of Toronto, Ontario. During the Relevant Period, Kitmitto was a senior analyst at AHAMI who, among other things, covered securities in the technology and gaming sectors. Kitmitto was an access person (“Access Person”) at AHAMI. The Personal Trading Policy of AHAMI’s parent company, Aston Hill Financial Inc. (“AHF”), defined an Access Person as an employee “...deemed to have regular access to non-public information regarding transactions and compositions of funds managed by AHF or one of its affiliates.” Kitmitto has never been registered with the Commission in any capacity.

8. Vannatta is a resident of Toronto, Ontario. During the Relevant Period, Vannatta was a portfolio manager at AHAMI who managed the Aston Hill Global Resource & Infrastructure Fund. Vannatta was also an Access Person at AHAMI. During the Relevant Period, Vannatta was registered with the Commission as an Advising Representative, Portfolio Manager, Investment Fund Manager and Exempt Market Dealer. Vannatta is currently registered in the same capacity with another employer.

9. Vannatta shared an office at AHAMI with his friend and colleague, Kitmitto, during the Relevant Period. Vannatta knew that Kitmitto covered technology securities, including Amaya.

10. Christopher is a resident of Toronto, Ontario. During the Relevant Period, he owned a women’s skincare business. He has never been registered with the Commission.

11. Kitmitto and Christopher have been friends since 2004, when they met as students at Wilfred Laurier University. Later, during the Relevant Period, they were roommates and friends who lived together in a condominium owned by Claudio. Christopher knew that Kitmitto was an analyst at AHAMI who covered the gaming sector, including Amaya.

12. Claudio is Christopher’s father and a resident of Toronto, Ontario. During the Relevant Period, Claudio practiced dentistry in Sudbury, Ontario. Claudio and Christopher had a close relationship and were in regular contact. Claudio and Kitmitto were friends, and Claudio knew that Kitmitto worked at Aston Hill. Claudio has never been registered with the Commission.

Kitmitto Learns Material, Non-Public Information about Amaya

13. In 2014:

- (a) AHAMI was a wholly-owned subsidiary of AHF. According to AHF's Annual Information Form for the year ended December 31, 2014:
 - i. AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds; and
 - ii. AHAMI was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds;
- (b) AHF was a reporting issuer in Ontario with its securities publicly traded on the Toronto Stock Exchange (the "TSX") under the symbol AHF;
- (c) Amaya was an entertainment solutions provider for the regulated gaming industry and a reporting issuer in Ontario. Its securities traded on the TSX under the symbol AYA. In April 2014, Amaya had a market capitalization of approximately \$600 million; and
- (d) Canaccord Genuity Group Inc. ("Canaccord") was a Toronto-based financial services firm providing financial advice to Amaya.

14. Beginning on or about April 25, 2014, Kitmitto learned material, non-public information about Amaya. On or about April 25, 2014, Kitmitto was contacted by a representative of Canaccord, who wanted to set up a meeting to explore whether AHAMI would participate in a proposed strategic transaction involving Amaya. Kitmitto also learned that in order to become involved, AHAMI would, as a first step, have to sign a non-disclosure agreement ("NDA") because the proposed transaction was confidential.

15. On or about April 28, 2014, Canaccord provided Kitmitto with an NDA. On or about April 29, 2014, Kitmitto signed the NDA, and attended a meeting with representatives of Amaya and Canaccord, where he learned that the proposed strategic transaction involved Amaya

acquiring all of the issued and outstanding shares of Oldford Group Limited (“Oldford Group”), the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands, in a transaction valued at over US\$4 billion.

16. Following the April 29, 2014 meeting, Amaya was placed on AHAMI’s restricted trading list. As a result, all AHAMI Access Persons and funds, including Kitmitto and Vannatta, were restricted from trading Amaya securities.

17. Amaya’s acquisition of the Oldford Group was publicly announced on June 12, 2014 at 9:00 p.m. (the “Announcement”).

Kitmitto Tipped His Friend, Colleague and Officemate Vannatta

18. Kitmitto and Vannatta shared an office at AHAMI. Beginning on or about April 25, 2014, while in a special relationship with Amaya pursuant to subsection 76(5)(b) of the Act, Kitmitto informed his officemate, Vannatta, of material, non-public information about Amaya. Pursuant to subsection 76(5)(e) of the Act, Vannatta became a person in a special relationship with Amaya.

19. Vannatta had never purchased Amaya securities before April 29, 2014. Vannatta purchased Amaya securities, contrary to 76(1) of the Act as follows:

- (a) On April 29, 2014, Vannatta purchased 1,750 securities of Amaya for approximately \$12,000 in his Scotia iTRADE RRSP account (“Scotia RRSP Account”);
- (b) On May 6, 2014, Vannatta used \$5,000 from his line of credit to fund his purchase of 2,043 securities of Amaya for approximately \$16,650 in his Scotia iTRADE TFSA account (“Scotia TFSA Account”); and
- (c) On May 14, 2014, Vannatta used his line of credit to purchase 410 securities of Amaya for approximately \$3,000 in his Scotia iTRADE regular account (“Scotia Regular Account”).

20. Vannatta sold his Amaya securities after the Announcement, and realized a profit of \$96,136 (a 304% return).

Vannatta Concealed His Trading In Amaya

(a) AHF's Personal Trading Policy

21. Vannatta failed to pre-clear his April 29, May 6 and May 14, 2014 trades in Amaya with AHAMI's Chief Compliance Officer ("CCO"), contrary to AHF's Personal Trading Policy. Vannatta also failed to submit any of his brokerage account statements for his three Scotia accounts on a monthly or quarterly basis to AHAMI's CCO, contrary to AHF's Personal Trading Policy.

(b) AHAMI's Internal Review

22. In June 2014, AHAMI conducted an internal review of trading in Amaya securities by its employees and funds. As part of this review, AHAMI's CCO asked AHAMI Access Persons to submit all of their brokerage statements for April and May 2014, including in respect of any accounts in which they had a beneficial ownership. In response to the CCO's request, Vannatta did the following:

- (a) He failed to provide brokerage statements for his Scotia RRSP, Scotia TFSA or Scotia Regular Accounts to AHAMI's CCO, advising that such brokerage statements were not available;
- (b) Instead, on June 26, 2014, Vannatta provided transaction histories for his Scotia RRSP and Scotia TFSA Accounts, which purportedly covered the period of March 25, 2014 to June 25, 2014. However, Vannatta had manipulated the transaction histories to show only trading for the 45 day period prior to June 26, 2014;
- (c) As such, the transaction histories for Vannatta's Scotia RRSP and TFSA Accounts only showed trading for the period of May 13 to June 25, 2014. Vannatta thereby concealed his April 29, 2014 purchase of Amaya securities in his Scotia RRSP Account, and his May 6, 2014 purchase of Amaya securities in his Scotia TFSA Account; and

- (d) Vannatta failed to provide any transaction histories for his Scotia Regular Account to AHAMI's CCO. Vannatta had purchased Amaya securities in his Scotia Regular Account on May 14, 2014.

(c) Certificate

23. In July 2014, AHAMI's CCO asked all Access Persons to execute a certificate listing all of their brokerage and trading accounts in which they had a direct or indirect interest, or over which they exercised control or direction, during the months of April, May and June 2014. Access Persons were also asked to certify that the list was complete and accurate.

24. On or about July 14, 2014, Vannatta signed and submitted a false and incomplete certificate to AHAMI's CCO. Vannatta listed his Scotia RRSP and TFSA Accounts, but made no mention of his Scotia Regular Account on the certificate.

25. By concealing his unlawful trading in Amaya from his employer, Vannatta acted contrary to the public interest.

Vannatta's Misleading Statements to Enforcement Staff

26. Vannatta was interviewed under oath by Enforcement Staff on October 19, 2016 and August 16, 2017, pursuant to subsection 13(1) of the Act. In the course of these examinations, Vannatta misled Enforcement Staff by:

- (a) claiming that he did not know that he had traded in Amaya on May 14, 2014;
- (b) claiming that he had pre-cleared his April 29, May 6 and May 14, 2014 trades in Amaya with AHAMI's CCO;
- (c) claiming that he submitted brokerage statements for each of his Scotia RRSP, TFSA and Regular Accounts to AHAMI'S CCO for the period of April to June 2014;
- (d) claiming that he did not intentionally select a 45 day range on the transaction histories for his Scotia RRSP and Scotia TFSA Accounts that he provided to AHAMI's CCO; and

- (e) claiming that he had provided AHAMI's CCO with a transaction history for his Scotia Regular Account for April and May 2014.

27. Vannatta thereby breached subsection 122(1)(a) of the Act, because he made statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

Vannatta Tipped His Family Members

28. In addition, beginning on or about April 30, 2014, Vannatta informed members of his family in Alberta of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Between April 30 and June 10, 2014, four of Vannatta's relatives purchased a total of 14,883 Amaya securities. Vannatta's relatives sold all of their Amaya securities after the Announcement, and realized profits of approximately \$195,000 (a 140% return).

Kitmitto Tipped His Friend and Roommate Christopher

29. On or before May 8, 2014, Kitmitto informed his friend and roommate, Christopher of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Pursuant to subsection 76(5)(e) of the Act, Christopher became a person in a special relationship with Amaya.

30. Christopher had never purchased Amaya securities before May 8, 2014, and had not done any trading in the two year period prior to that date. On May 8, 2014, Christopher bought approximately \$5,400 worth of Amaya securities, contrary to subsection 76(1) of the Act. Christopher used \$5,000 from a line of credit to fund the purchase. The line of credit was jointly held by Christopher and his father, Claudio.

31. On May 21, 2014, Christopher purchased another approximately \$5,400 worth of Amaya securities, contrary to subsection 76(1) of the Act.

32. Christopher sold all of his Amaya securities on September 9, 2014 (after the Announcement) and realized a profit of \$30,782 (a 285% return).

Christopher's Misleading Statements to Enforcement Staff

33. Christopher was interviewed under oath by Enforcement Staff on September 8, 2016, pursuant to subsection 13(1) of the Act. In the course of this examination, Christopher misled Enforcement Staff by:

- (a) denying that he had a line of credit, when in fact he held a line of credit jointly with his father, Claudio; and
- (b) falsely stating that he used a dividend from his father's professional corporation to fund his May 8, 2014 purchase of Amaya securities, when in fact he used his and his father's joint line of credit for that purchase, and then later received a dividend of \$5,000 which he used to repay his line of credit.

34. Christopher thereby breached subsection 122(1)(a) of the Act because he made statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

Christopher Tipped His Father and Landlord Claudio

35. On or before May 16, 2014, Christopher informed his father, Claudio, of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Pursuant to subsection 76(5)(e) of the Act, Claudio became a person in a special relationship with Amaya.

36. Claudio had never purchased Amaya securities before May 16, 2014, and had not done any trading in the two year period prior to that date. On May 16, 2014, Claudio bought approximately \$10,000 worth of Amaya securities, contrary to subsection 76(1) of the Act.

37. Claudio sold all of his Amaya securities on the same day as his son, Christopher, sold his Amaya securities. Claudio sold his Amaya securities on September 9, 2014 (after the Announcement) and realized a profit of \$31,956 (a 325% return).

C. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST:

38. Enforcement Staff alleges the following breaches of Ontario securities law and conduct contrary to the public interest:

- (a) Kitmitto, Vannatta and Christopher, while in a special relationship with Amaya, informed other persons of material facts with respect to Amaya, before the information was generally disclosed, contrary to subsection 76(2) of the Act and contrary to the public interest;
- (b) Vannatta, Christopher and Claudio, while in a special relationship with Amaya, traded securities of Amaya with knowledge of material facts before the information was generally disclosed, contrary to subsection 76(1) of the Act and contrary to the public interest;
- (c) Vannatta engaged in conduct contrary to the public interest by concealing his trading in Amaya securities from his employer, AHAMI; and
- (d) Vannatta and Christopher made misleading statements to Enforcement Staff on material matters and/or omitted facts required to make the statements not misleading, contrary to subsection 122(1)(a) of the Act and contrary to the public interest.

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

DATED this 28th day of February, 2018.