



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF MAJD KITMITTO, STEVEN VANNATTA,
CHRISTOPHER CANDUSSO, CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS, JOHN FIELDING AND FRANK FAKHRY**

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”), Steven Vannatta (“Vannatta”), Christopher Candusso (“Christopher”), Claudio Candusso (“Claudio”), Donald Alexander (Sandy) Goss (“Goss”), John Fielding (“Fielding”) and Frank Fakhry (“Fakhry”) (collectively, “the Respondents”):**

- (a) pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5, as amended (the “**Act**”), that trading by each of the Respondents in any securities or derivatives ceases 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 the Respondents 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 the Respondents 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 the Respondents be reprimanded;

- (e) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, that each of the Respondents resigns 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 the Respondents 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 the Respondents 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 the Respondents pays 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 the Respondents disgorges 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 the Respondents pays the costs of the Commission investigation and the hearing; and
 - (k) such other order as the Commission considers appropriate in the public interest.
- (ii) Kitmitto, Vannatta, Goss and Fakhry:**
- (a) pursuant to paragraph 1 of subsection 127(1) of the Act, that Kitmitto, Vannatta, Goss and Fakhry's registrations 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 their registrations.

B. FACTS:

Enforcement Staff make the following allegations of fact:

Overview

2. Ontario's securities law prohibits insider tipping and trading to protect investors and the integrity of the province's capital markets. Anti-tipping and insider trading law is 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 misuse of inside information which the Act is designed to prevent.

3. The Respondents carried out illegal insider tipping and trading during the period of April 25, 2014 to June 12, 2014 (the "**Relevant Period**").

4. 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, who also traded in Amaya securities.

5. Kitmitto also disseminated material, non-public information about Amaya to Goss. Goss was an investment adviser at Aston Hill Securities Inc. ("**AHS**"). Goss traded in Amaya securities and tipped his significant client, Fielding, another client, F.H., and his assistant, Fakhry, about Amaya. While possessed of the material, non-public information, they all traded in Amaya securities. Fakhry also tipped two of his relatives and a friend who was also a client. Both Goss and Fakhry recommended Amaya securities to numerous clients.

The Respondents

6. 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."

7. 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.
8. 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.
9. Christopher is a resident of Toronto, Ontario. During the Relevant Period, he owned a women's skincare business.
10. 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.
11. 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.
12. Goss is a resident of Toronto, Ontario. During the Relevant Period, he was an investment adviser at AHS. In 2014, he had a substantial book of business at AHS. He has been registered with the Commission since 1993.
13. Fielding is a resident of Toronto, Ontario. In 2014, he was a significant client of Goss at AHS. He had been a client of Goss at two previous brokerage firms since 2001. His investment company is Dark Bay International Ltd. ("**Dark Bay**"). He was a director of AHF, from February 2014 to August 2016. Fielding was introduced to AHF through Goss.
14. Fakhry is a resident of Toronto, Ontario. He joined AHS in September 2013 – two weeks after Goss - as an investment adviser. Fakhry was Goss' assistant at AHS and at their previous place of employment. In April 2014, he had a small book of business with a total of eight clients. He has been registered with the Commission since 1999.

AHAMI and AHS

15. The AHAMI offices were located next to AHS' offices. The two affiliated companies shared a common reception. Goss and Fakhry had offices at AHS.

16. Kitmitto and Goss were colleagues and friends. Kitmitto, Goss, and Fielding were all friends who socialized with one another and continually communicated with one another.

Kitmitto Learns Material, Non-Public Information about Amaya

17. In 2014:

- (a) AHAMI and AHS were wholly-owned subsidiaries 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;
 - 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; and
 - iii. AHS was an investment dealer, and a member of the Investment Industry Regulatory Organization of Canada ("IIROC") and the Canadian Investor Protection Fund, providing professional, personalized trading and investment services to private investors.
- (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.

18. 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 to become involved, AHAMI would, as a first step, have to sign a non-disclosure agreement (“**NDA**”) because the proposed transaction was confidential.

19. Kitmitto agreed to sign the NDA and meet with Amaya. On April 25, 2014, at 1:36 p.m., Kitmitto advised the Canaccord representative in a Bloomberg chat, “I’ll take the meeting Tuesday with Baazov.” David Baazov (“**Baazov**”) was the CEO of Amaya in 2014. At 1:47 p.m., Kitmitto sent an email to the head trader at AHAMI to purchase 200,000 Amaya securities for the AHAMI funds.

20. On or about April 28, 2014, Canaccord provided Kitmitto with an NDA. Before signing the NDA, Kitmitto met with a friend, M.K., who worked at Canaccord and knew about the proposed strategic transaction involving Amaya. He told Kitmitto that he should sign the NDA.

21. On or about Tuesday, April 29, 2014, Kitmitto signed the NDA, and attended a meeting at AHAMI’s offices 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 (the “**Acquisition**”).

22. During the meeting, Kitmitto was presented with a hardcopy of a slide deck of the proposed Acquisition. The 20-page slide deck was dated April 2014 and titled “Amaya Investment Opportunity.” Each page of the slide deck was marked “Private & Confidential.” Page 14 of the slide deck titled “Sources and Uses” indicated at the top of the page that the transaction required approximately \$600 million of equity. With respect to the \$600 million of equity “approximately \$150 million of indicated demand had been made at \$20 per share, remaining equity requirement backstopped with bridge.” AHAMI was being asked to participate in the equity financing of the Acquisition. Page 17 of the slide deck titled “Timeline” indicated at the top of the page that the target announcement date was May 12, 2014.

23. 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.

24. The Acquisition was not announced on May 12, 2014 as originally targeted. It was delayed on a number of occasions as set out below:

- (a) on Thursday, May 8, 2014 at 1:49 p.m., a Canaccord representative advised Kitmitto that the announcement of the Acquisition was delayed until Wednesday, May 21, 2014;
- (b) on Tuesday, May 27, 2014 at 11:37 a.m., a Canaccord representative advised Kitmitto that "looks like this is not going to get announced until the weekend" (Friday May 31 to Sunday June 1);
- (c) on Sunday, June 1, 2014 at 12:00 p.m., a Canaccord representative emailed Kitmitto re Slight delay, "delay until Thursday" (June 5);
- (d) on Thursday June 5, 2014 at 2:07 p.m., Kitmitto emailed a Canaccord representative saying, "Everything on track?" The representative replied, "Tuesday - all good" and later "Baaz's words" (June 10); and
- (e) on Monday, June 9, 2014 at 12:58 p.m., the Canaccord representative emailed Kitmitto saying, "Timing is Thursday. Board meeting [sic] set, etc. Thanks again for your patience." (June 12).

25. The Acquisition was publicly announced on June 12, 2014 at 9:24 p.m. (the "**Announcement**")

Kitmitto Tipped His Friend, Colleague and Officemate Vannatta

26. 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.

27. 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**”).

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

Vannatta Concealed His Trading In Amaya

(a) AHF’s Personal Trading Policy

29. 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

30. 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

31. 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.

32. 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.

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

Vannatta's Misleading Statements to Enforcement Staff

34. 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.

35. 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

36. 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, representing a return of 140%.

Kitmitto Tipped His Friend and Roommate Christopher

37. 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.

38. 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.

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

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

Christopher's Misleading Statements to Enforcement Staff

41. 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.

42. 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

43. 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.

44. 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.

45. 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, representing a 325% return.

Kitmitto Tipped His Colleague and Friend Goss

46. On or before April 29, 2014, Kitmitto informed Goss of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Pursuant to subsection 76(5)(e) of the Act, Goss became a person in a special relationship with Amaya.

47. On Tuesday, April 29, 2014 at 3:25 p.m., (after Kitmitto attended the meeting with Amaya between 1 p.m. and 2 p.m.), Goss sent an email to Kitmitto with no subject line stating, “What’s up?”.

48. Twenty minutes later, at 3:52 p.m., Goss began to acquire Amaya securities in his own account and by the Announcement of June 12, 2014, he had acquired a net position of 70,400 Amaya securities for an investment of \$669,668, contrary to section 76(1) of the Act.

49. In addition to purchasing Amaya securities in his own account, Goss purchased securities of Amaya in his joint account with his wife, in his wife’s account, and in his children’s accounts. The Goss family accounts acquired 14,040 Amaya securities worth \$135,051 prior to the Announcement.

50. After the Announcement, Goss sold the Amaya securities in the Goss family accounts for a profit of \$224,028 (representing a return of 166%) and in his personal accounts for a profit of \$1,004,481 (representing a return of 150%) for a total profit in the Goss accounts of \$1,228,609 (representing a return of 153%).

51. Goss’ net investment in Amaya prior to June 12, 2014, including the investment in the family accounts was approximately \$804,000. This represented between 60 to 80% of his annual salary. The last time he made such a large trade was five years earlier.

52. The timing and nature of his trades, the communications between Goss and others, and the timing of the communications between Goss and others shows that he was aware of the Acquisition, including details contained in the slide deck provided to Kitmitto at his meeting with Amaya, and was informed about the delays of the Announcement.

53. Further, between April 28, 2014 and June 12, 2014, Goss recommended purchasing Amaya shares to 20 clients of AHS and non-clients who purchased Amaya securities and earned profits in excess of \$8 million representing returns in excess of 169%. Two of these clients are discussed below.

Goss Tipped His Significant Client Fielding

54. On or before April 29, 2014, Goss informed Fielding of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Pursuant to subsection 76(5)(e) of the Act, Fielding became a person in a special relationship.

55. On April 29, 2014, eleven minutes after Goss sent the “What’s up?” email to Kitmitto, Dark Bay – Fielding’s investment holding company – began to purchase Amaya securities and between April 29 and May 14, 2014 acquired a net position of 200,000 Amaya securities, contrary to subsection 76(1) of the Act.

56. Fielding, through Dark Bay, invested over \$1.4 million in Amaya securities at AHS from April 29 to May 14, 2014. Fielding is a frequent trader of securities. This was a large investment in securities for Dark Bay. After the Announcement, Dark Bay sold the Amaya securities for a profit of more than \$4 million, representing a return of 287%.

57. The timing and nature of the trades in the Dark Bay account, Fielding’s communications with others, and the timing of his communications with others show that Fielding had knowledge of the Acquisition and was informed about the delays of the Announcement.

Goss Tipped His Client F.H.

58. On or before May 2, 2014, Goss informed his client, F.H. of material, non-public information about Amaya, contrary to subsection 76(2) of the Act.

59. On May 2, 2014, Goss had a conversation with F.H. F.H. purchased 60,000 Amaya securities at AHS in his own account and in the accounts of family members. In one account, the purchase of Amaya securities was made on margin. In early June 2014, F.H. faxed Goss documents which suggested that F.H. was concerned that Amaya would not acquire PokerStars. Subsequent to two calls with Goss, on June 4, 2014, F.H. purchased 5,075 more Amaya securities at AHS in his account and the accounts of family members.

60. After the Announcement, F.H. sold his Amaya securities at AHS in his accounts and in his relatives' accounts for a cumulative profit of \$1,105,184, representing a return of 216%.

Goss Tipped His Assistant Fakhry

61. On or before May 2, 2014, Goss informed Fakhry of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Pursuant to subsection 76(5)(e) of the Act, Fakhry became a person in a special relationship with Amaya.

62. Fakhry had never traded Amaya securities before May 2, 2014 and had not traded in any way in any of his accounts since March 2013. On May 2, Fakhry bought Amaya securities on margin and by June 12, 2014 had accumulated 11,000 Amaya securities for an investment of \$90,764, contrary to subsection 76(1) of the Act.

63. On May 20, 2014, Fakhry borrowed \$20,000 from his line of credit to fund his May 20, 2014 purchase of Amaya shares. His line of credit had been paid off in full since August 2013.

64. Fakhry's investment in Amaya in the Relevant Period was higher than his annual salary at AHS and almost equal to his net worth.

65. Fakhry informed two of his relatives, who were not his clients, and one of his clients of material, non-public information about Amaya, contrary to subsection 76(2) of the Act. Neither his two relatives nor his client had ever purchased Amaya securities before.

66. Fakhry sold of all his Amaya securities after the Announcement and earned a profit of \$126,546, representing a return of 139%. His two relatives and the client whom he tipped also sold their Amaya securities after the Announcement and earned a profit of \$207,023, representing a return of 101%.

67. Fakhry also recommended Amaya to five of his seven other clients. Those five clients purchased Amaya and earned a cumulative profit of \$1,129,223, representing a return of 126%.

68. The timing of his trades, the communications between Fakhry and others, and the timing of the communications between Fakhry and others as well as the timing of trades of others and the communications and timing of communications among others show that Fakhry was aware of the Acquisition, including details contained in the slide deck provided to Kitmitto at his meeting with Amaya, and was informed about the delays of the Announcement.

69. For example, during the Relevant Period, the communications between Fakhry and one of his relatives began to increase significantly. During the period of April 1-29, 2014, there were no telephone calls between Fakhry and his relative. On May 3, 2014, Fakhry had two telephone calls with this relative. One of the calls lasted 26 minutes. His relative made his first purchase of Amaya securities on May 6, 2014. Between May 7, 2014 and June 14, 2014, they contacted each other on 21 occasions by telephone and on 114 occasions by text. Between May 6, 2014 and May 28, 2014, his relative accumulated a total of 11,700 Amaya securities for a cost of \$119,575. After the Announcement, he sold 10,800 Amaya securities for a profit of \$116,228, representing 105% return on his investment.

70. On May 28, 2014, Fakhry's relative texted his best friend. His text stated, "U going to sell at 20 if it goes there tomorrow?" His friend responded: "How you figure it's going there tomo?" Fakhry's relative replied: "That's the 'word'." His friend texted: "Plus that would be impossible" "No way". Fakhry's relative responded: "Dude. When a company that is not public merges with one that is..." His friend texted, "Ok, but there's no news and how could it go up almost double in one day?"

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

71. Enforcement Staff allege the following breaches of Ontario securities law and conduct contrary to the public interest during the Relevant Period:

- (a) Kitmitto, Vannatta, Christopher, Goss and Fakhry 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, Claudio, Goss, Fielding and Fakhry 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;

- (d) Goss and Fakhry while in a special relationship with Amaya, engaged in conduct contrary to the public interest by recommending their clients purchase Amaya securities while each of Goss and Fakhry possessed material, non-public information about Amaya; and
- (e) 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.

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

DATED this 23rd day of November, 2018.

Matthew Britton
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Enforcement Branch

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