



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF  
ALY BABU HUSEIN MAWJI**

**STATEMENT OF ALLEGATIONS  
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990 c S.5)**

1. Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**) elect to proceed using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Commission's *Rules of Procedure*.

**A. OVERVIEW**

2. On October 12, 2012, Aly Babu Husein Mawji (**Mawji** or the **Respondent**) was convicted before the District Court Stuttgart, Germany (**Stuttgart District Court**) of illegal market manipulation. The Stuttgart District Court sentenced Mawji to three years and two months imprisonment.
3. The offences for which Mawji was convicted arose from a "pump and dump" scheme involving transactions, business or a course of conduct related to securities.
4. The conduct for which Mawji was sanctioned took place between May 15, 2006 and June 15, 2006 (the **Material Time**).
5. On December 4, 2013, the German Federal Court of Justice (**GFCJ**) upheld the conviction of Mawji.

6. Staff seek an inter-jurisdictional enforcement order reciprocating Mawji's conviction, pursuant to paragraph 1 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990 c S.5 (the **Act**).

## **B. FACTS**

Staff of the Enforcement Branch of the Ontario Securities Commission ("Enforcement Staff") make the following allegations of fact:

### **(i) The Respondent**

7. Mawji is a resident of British Columbia.
8. Mawji holds no securities registration in Ontario.
9. On November 26, 2018, the British Columbia Securities Commission issued a temporary cease trade order against Mawji and other persons from, among other things, purchasing or selling the securities of certain companies listed on the Canadian Securities Exchange.

### **(ii) German Court Proceedings**

#### *Mawji's Conviction*

10. On October 12, 2012, Mawji was convicted before the Stuttgart District Court of illegal market manipulation, in relation to section 38(2), in conjunction with section 39(1) no. 2, and section 20a(1) no. 3 of the German Securities Trading Act (WpHG); section 4(3) no. 2 of the German Market Manipulation Definition Regulation (MaKonV); and section 25(2) of the German Criminal Code.

#### *The Findings*

11. In relation to Mawji's conviction for illegal market manipulation, the Stuttgart District Court found the following:

- (a) In early 2006, Mawji gained almost complete possession of the freely traded shares of a company (**Company D**). Together with Individual G, Mawji decided to increase the price of Company D's stock through recommendations in the media. Mawji transferred half of his Company D share stock to Individual G in exchange for Individual G to market the stock through his network of stock exchange journalists.
- (b) During the Material Time, Individual G and associates of Individual G actively promoted and recommended the purchase of the share stock in Company D in the media. Company D's share stock was promoted as a lucrative investment despite Company D not running an operative business.
- (c) Mawji's Company D stock holdings were not disclosed in any publications, disclaimers and/or warnings, nor was that information disclosed online.
- (d) Company D stock remained virtually inactive following its initial listing on February 24, 2006. During the Material Time, the stock exchange price of Company D stock increased from EUR 2.10 to EUR 18.10. Mawji used the rate increases for advantageous sale of the shares. Overall, Mawji made EUR 25,660,856.02 from the sale of Company D shares.
- (e) Company D's share price fell again following the conclusion of the marketing campaign, closing at EUR 2.92 on June 30, 2006. Over the course of 2006 and 2007, sales volume and share price of Company D stock continually decreased, and the share price tended towards zero.

#### Mawji's Sentence

12. On October 12, 2012, Mawji was convicted before the Stuttgart District Court of illegal market manipulation. The Stuttgart District Court sentenced Mawji to three years and two months imprisonment.

Appeal

13. Mawji appealed the Stuttgart District Court judgment to the GFCJ. The GFCJ issued its decision on December 4, 2013, denying Mawji's appeal of the Stuttgart District Court's judgment, except for the findings regarding 111i paragraph 2 of the German Code of Criminal Procedure. Section 111i paragraph 2 is a provision enacted in January 2007 for the purpose of strengthening enforcement for damages and asset forfeiture. The GFCJ held that section 111i paragraph 2 was inapplicable to Mawji because it came into effect on January 1, 2007, and found that Mawji's offence of market manipulation was completed prior to the introduction of section 111i paragraph 2 after the Material Time.
14. The GFCJ found no errors of law regarding the conviction of charges against Mawji and upheld the Stuttgart District Court's findings that Mawji had carried out an illegal market manipulation of Company D shares. The GFCJ upheld Mawji's conviction.

**C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION**

15. Pursuant to paragraph 1 of subsection 127(10) of the Act, Mawji's convictions for offences arising from transactions, business or a course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.
16. Staff allege that it is in the public interest to make an order against Mawji.

17. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

**D. ORDER SOUGHT**

18. Staff request that the Commission make the following inter-jurisdictional enforcement order, pursuant to paragraph 1 of subsection 127(10) of the Act:

(a) against Aly Babu Husein Mawji (**Mawji** or the **Respondent**) that:

- i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Mawji cease permanently;
- ii. pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by Mawji be prohibited permanently;
- iii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Mawji permanently;
- iv. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Mawji resign any positions that he holds as a director or officer of any issuer or registrant;
- v. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Mawji be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant; and
- vi. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Mawji be prohibited permanently from becoming or acting as a registrant or promoter;

(b) such other order or orders as the Commission considers appropriate.

**DATED** at Toronto this 10<sup>th</sup> day of October, 2019.

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