



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF
COINSQUARE LTD., COLE DIAMOND,
VIRGILE ROSTAND and FELIX MAZER**

M. Cecilia Williams, Commissioner and Chair of the Panel

File No. 2020-21

July 21, 2020

ORDER

(Sections 127 and 127.1 of the
Securities Act, RSO 1990, c S.5)

WHEREAS on July 21, 2020, the Ontario Securities Commission (the **Commission**) held a hearing by video conference to consider the request made jointly by Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**) and Felix Mazer (**Mazer**) and Staff of the Commission for approval of a settlement agreement dated July 16, 2020 (the **Settlement Agreement**);

ON READING the Joint Application for a Settlement Hearing, including the Statement of Allegations dated July 16, 2020 and the Settlement Agreement, and on hearing the submissions of the representatives of each of the parties, and on considering that Mazer has made a voluntary payment of \$50,000 to the Commission, and on considering the undertaking given to the Commission by Coinsquare and its subsidiary Coinsquare Capital Markets Ltd., in the form attached as Annex I to this Order (the **Undertaking**);

IT IS ORDERED THAT:

1. The Settlement Agreement is approved;
2. Coinsquare shall pay costs in the amount of \$200,000, pursuant to section 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
3. Diamond:
 - (a) shall resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, subject to the following exception:
 - i. Diamond may continue to act as a director or officer of a private issuer as defined in section 2.4 of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* that is not affiliated with Coinsquare Ltd. and is not a market participant;
 - (b) is prohibited from becoming or acting as a director or officer of any issuer for a

period of 3 years commencing on the date of this Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exceptions:

- i. Diamond may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant, and
 - ii. after 1 year from the date of this Order, Diamond may become or act as a director or officer of Coinsquare Ltd. and/or affiliated issuers, other than Coinsquare Capital Markets Ltd., provided that Coinsquare Ltd. and/or the affiliated issuer is not a market participant and that Diamond is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;
- (c) is prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of this Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Diamond shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
- i. proposing, nominating and appointing new officers,
 - ii. participating in any meeting of the board of directors or any committee of the board of directors,
 - iii. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - iv. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
 - v. hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - vi. participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Diamond's individual filing requirements,
 - vii. marketing the services of the registrant to clients or potential clients,
 - viii. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - ix. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - x. supervising any person performing any of the above enumerated activities, and
 - xi. nothing in paragraph 3(c) of this Order is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.' board of directors to request and receive information from Diamond where the independent

directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the board of directors maintains a record of all the requests and information received;

- (d) is prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of this Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (e) shall pay an administrative penalty in the amount of \$1,000,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subclause 3.4(2)(b)(i) or (ii) of the Act; and
- (f) shall pay costs in the amount of \$50,000, pursuant to section 127.1 of the Act.

4. Rostand:

- (a) shall resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, with the following exception:
 - i. Rostand may continue to act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant;
- (b) is prohibited from becoming or acting as a director or officer of any issuer for a period of 2 years commencing on the date of this Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exception:
 - i. Rostand may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant, and
 - ii. after 1 year from the date of this Order, Rostand may become or act as a director or officer of Coinsquare Ltd. and/or affiliated issuers, other than Coinsquare Capital Markets Ltd., provided that Coinsquare Ltd. and/or the affiliated issuer is not a market participant and that Rostand is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;
- (c) is prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of this Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Rostand shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
 - i. proposing, nominating and appointing new officers,
 - ii. participating in any meeting of the board of directors or any committee of the board of directors,
 - iii. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - iv. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
 - v. hiring, supervising or terminating staff of the registrant or providing input

or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,

- vi. participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Rostand's individual filing requirements,
 - vii. marketing the services of the registrant to clients or potential clients,
 - viii. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - ix. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - x. supervising any person performing any of the above enumerated activities, and
 - xi. nothing in paragraph 4(c) of this Order is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.'s board of directors to request and receive information from Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the board of directors maintain a record of all the requests and information received;
- (d) is prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of this Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (e) shall pay an administrative penalty in the amount of \$900,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subclause 3.4(2)(b)(i) or (ii) of the Act; and
- (f) shall pay costs in the amount of \$50,000, pursuant to section 127.1 of the Act.

5. Mazer:

- (a) shall be prohibited from becoming or acting as a director or officer of a registrant for a period of 1 year commencing on the date of this Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Mazer shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
- i. proposing, nominating and appointing new officers,
 - ii. participating in any meeting of the board of directors or any committee of the board of directors,
 - iii. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - iv. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,

- v. hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - vi. participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Mazer's individual filing requirements,
 - vii. marketing the services of the registrant to clients or potential clients,
 - viii. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - ix. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - x. supervising any person performing any of the above enumerated activities, and
 - xi. nothing in paragraph 5(a) of this Order is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.'s board of directors to request and receive information from Mazer where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the board of directors maintains a record of all the requests and information received; and
- (b) is prohibited from becoming or acting as a registrant for a period of 1 year commencing on the date of this Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act.
6. The voluntary payment of \$50,000 made by Mazer is designated for allocation or use by the Commission in accordance with subclause 3.4(2)(b)(i) or (ii) of the Act.

"M. Cecilia Williams"

M. Cecilia Williams

ANNEX I

UNDERTAKING OF COINSQUARE LTD. and COINSQUARE CAPITAL MARKETS LTD.

IN THE MATTER OF COINSQUARE LTD., COLE DIAMOND, VIRGILE ROSTAND and FELIX MAZER

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated July 16, 2020 (the **Settlement Agreement**) between Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**), Felix Mazer and Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. Coinsquare and Coinsquare Capital Markets Ltd. (**Coinsquare Capital Markets**) undertake to do the following:

- (a) within 45 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
 - (i) create and permanently maintain an independent board of directors (the **Board**) that meets the following terms and conditions:
 - A. the Board shall be comprised of more than 50% independent directors,
 - B. the Chair of the Board shall be an independent director,¹

¹ However, where this provision conflicts with applicable regulatory requirements, Staff may permit Coinsquare Capital Markets to implement an alternative that is acceptable to Staff.

- C. the quorum for the Board shall consist of a majority of the Board members, with at least 50% of the majority being independent directors,
- D. for the purposes of this undertaking, an individual is an independent director if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:
 - I. is a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets, or a partner, officer or employee of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer or employee,
 - II. is a shareholder, partner, officer, director or employee of an affiliated entity of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer, director or employee,
 - III. is a shareholder, partner, officer, director or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets,
 - IV. is a client or marketplace participant of Coinsquare Capital Markets or is a shareholder, partner, officer, director or employee of a client or marketplace participant of Coinsquare Capital Markets who is responsible for or is actively engaged in the day-to-day operations or activities of that Coinsquare Capital Markets client or marketplace participant,
 - V. is a director that was nominated, and as a result appointed or elected, by a founding shareholder or launch shareholder, or

- VI. has, or has had, any relationship with a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets that could, in the view of the Board, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Coinsquare or Coinsquare Capital Markets;
- (ii) create and permanently maintain a whistleblower program that contains reporting channels that are independent, broadly communicated and accessible (the **Internal Whistleblower Program**) and meets the following terms and conditions:
- A. the Internal Whistleblower Program reports directly to an independent committee of the Board (the **Independent Board Committee**),
 - B. the Internal Whistleblower Program shall include protections from reprisal and mechanisms for anonymous reporting,
 - C. the Independent Board Committee shall exercise oversight of the Internal Whistleblower Program and ensure that information being submitted is properly investigated and resolved, and
 - D. the Independent Board Committee shall ensure that information received from the Internal Whistleblower Program is reported to the Commission, a recognized self-regulatory organization or law enforcement agency where appropriate or otherwise required by law; and
- (iii) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(a)(i) or (ii) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure;

- (b) within 90 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, the Board of Coinsquare and Coinsquare Capital Markets shall each:
 - (i) appoint a Chief Executive Officer (**CEO**); and
 - (ii) appoint a Chief Compliance Officer (**CCO**);
- (c) within 15 days of the appointment of the CEO and CCO, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
 - (i) submit an attestation, in a format acceptable to Staff and signed by the CEO and CCO, attesting to the fact that, from the date of their appointment, the CEO and CCO have and will continue to:
 - A. supervise the activities of the firm that are directed towards ensuring compliance with Ontario securities law by the firm and each individual acting on the firm's behalf, and
 - B. promote and require compliance by the firm, and individuals acting on its behalf, with Ontario securities law; and
 - (ii) submit an attestation, in a format acceptable to Staff and signed by the CCO, attesting to the fact that, from the date of the CCO's appointment, the CCO has and will continue to:
 - A. establish and maintain policies and procedures designed to monitor and assess compliance by the firm, and individuals acting on its behalf, with Ontario securities law,
 - B. monitor and assess compliance by the firm, and the individuals acting on its behalf, with Ontario securities law,

- C. immediately report to the CEO of the firm if the CCO becomes aware of any circumstances indicating that the firm, or any individual acting on its behalf, may be in non-compliance with Ontario securities law, and
 - D. submit an annual report to the firm's Board for the purpose of assessing compliance by the firm, and individuals acting on its behalf, with Ontario securities law;
- (d) after Coinsquare and Coinsquare Capital Markets have complied with the above and within 105 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare Capital Markets shall:
- (i) resubmit complete and updated applications for registration as an investment dealer and to operate a marketplace with the Commission, including a complete and accurate Form 21-101F2 *Information Statement Alternative Trading System*, and for membership with IIROC;
 - (ii) submit a report from Coinsquare and Coinsquare Capital Market's Board that includes in a manner acceptable to Staff:
 - A. a description of the steps taken to ensure the fitness of its directors, officers and any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets and the policies and procedures designed to ensure continued fitness with respect to the operation of the Coinsquare Platform with integrity,
 - B. a description of the controls it has implemented or the steps it has taken to address the matters giving rise to the Settlement Agreement,
 - C. confirmation that it is the view of each Board that the directors and officers will perform their duties with integrity and in a manner consistent with the public interest, and

- D. confirmation that each Board will take reasonable steps to ensure that any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets is a fit and proper person and that past conduct of each person or company affords reasonable grounds for the belief that the business of the Coinsquare Platform will be conducted with integrity;
- (e) for three years from the date of the approval of this Settlement Agreement by the Commission, Coinsquare Capital Markets and any affiliated companies carrying on activities that require registration under Ontario securities law (the **Coinsquare Affiliates**) shall not permit Diamond or Rostand to perform functions similar to those normally performed by an officer or director, including:
- (i) proposing, nominating and appointing new officers;
 - (ii) participating in any meeting of the Board or any committee of the Board;
 - (iii) providing instructions or directions to management of Coinsquare or Coinsquare Capital Markets or to any legal or financial advisors on behalf of Coinsquare or Coinsquare Capital Markets;
 - (iv) having signing authority for Coinsquare or Coinsquare Capital Markets, including signing authority over any bank or other accounts of Coinsquare or Coinsquare Capital Markets;
 - (v) hiring, supervising or terminating staff of Coinsquare or Coinsquare Capital Markets or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation;
 - (vi) participating in any decisions with or attempt in any way to influence management or the Board of Coinsquare or Coinsquare Capital Markets, or make any recommendations in relation to decisions: (a) affecting the compliance by Coinsquare or Coinsquare Capital Markets with Ontario

- securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by Coinsquare or Coinsquare Capital Markets under Ontario securities law, except as required by law in respect of Diamond and/or Rostand's individual filing requirements;
- (vii) marketing the services of the registrant to clients or potential clients;
 - (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of Coinsquare or Coinsquare Capital Markets;
 - (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of Coinsquare or Coinsquare Capital Markets;
 - (x) supervising any person performing any of the above enumerated activities; and
 - (xi) nothing in paragraph 2(e) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Diamond and/or Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received;
- (f) Coinsquare and Coinsquare Capital Markets shall establish, maintain and require compliance with policies and procedures reasonably designed to ensure compliance with paragraph 2(e) above, including compliance by all directors, officers and employees of Coinsquare and Coinsquare Capital Markets; and
- (g) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(e) or (f) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE LTD.

By: “Jason Theofilos”
Name: Jason Theofilos
Title: Director

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE CAPITAL MARKETS LTD.

By: “Jason Theofilos”
Name: Jason Theofilos
Title: Authorized Signatory