



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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Citation: Vantage Global Prime Pty Ltd (Re), 2021 ONSEC 18

Date: 2021-07-14

File No.: 2021-25

**IN THE MATTER OF
VANTAGE GLOBAL PRIME PTY LTD AND
VANTAGE INTERNATIONAL GROUP LTD**

**REASONS AND DECISION FOR APPROVAL OF A SETTLEMENT
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)**

Hearing: In writing

Decision: July 14, 2021

Panel: Lawrence P. Haber Commissioner and Chair of the Panel
Craig Hayman Commissioner
Frances Kordyback Commissioner

Appearances: Anna Huculak For Staff of the Commission
Lawrence E. Ritchie For Vantage Global Prime Pty Ltd
and Vantage International Group Ltd

REASONS AND DECISION FOR APPROVAL OF A SETTLEMENT

I. OVERVIEW

- [1] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) and Vantage Global Prime Pty Ltd (**VGP**) and Vantage International Group Ltd (**VIG**) (collectively, **Vantage** or the **Respondents**) have jointly submitted that it would be in the public interest for us to approve a settlement agreement among the parties dated July 7, 2021 (the **Settlement Agreement**) and to issue the requested order.
- [2] This matter concerns allegations against the Respondents described in the Statement of Allegations dated July 8, 2021, which relate to foreign trading platforms failing to comply with Ontario securities law when trading with Ontario investors.
- [3] Specifically, Staff alleges that the Respondents, by operating online trading platforms on which Ontario investors could trade in contracts for difference (**CFDs**) without registering or filing a prospectus with the Commission, breached ss. 25(1) and 53(1) of the *Securities Act*.¹
- [4] Staff and the Respondents have agreed that the Respondents' conduct contravened Ontario securities law. After considering the Settlement Agreement and the submissions of the parties, we conclude that it would be in the public interest to approve the Settlement Agreement. These are our reasons.

II. SUMMARY OF THE FACTS

- [5] The underlying facts and the specific breaches of Ontario securities laws are set out in the Settlement Agreement, which has been filed with the Commission and is publicly available. Accordingly, we need not repeat them in detail here.
- [6] In summary, VGP and VIG were foreign related parties that operated online trading platforms on which investors could trade in CFDs. In 2019, the Australian Securities & Investments Commission advised its licensees (which included VGP) to examine and wind down their operations if there was a breach of the law in the overseas jurisdictions in which they operate. As a result, VGP, who was not registered with the Commission in any capacity and had not filed a prospectus with the Commission, ceased its operations in Ontario in July 2019. VGP gave their Ontario investors the option to close their accounts or be transferred to VIG, a related company registered and regulated by the Cayman Islands Monetary Authority. The Ontario investors that did not close their accounts continued to trade CFDs on VIG's online trading platform.
- [7] The parties acknowledge that CFDs are derivatives that constitute securities when offered to Ontario investors, and involve a distribution of a security when issued to Ontario investors. The CFDs opened and operated by Vantage provided Ontario investors with leveraged exposure to assets such as cryptocurrencies, soft commodities, precious metals and equities.
- [8] Accordingly, between January 2014 and July 2019, VGP engaged in unregistered trading contrary to s. 25(1) of the Act and made distributions that did not

¹ RSO 1990, c S.5 (the **Act**)

comply with Ontario securities law by opening and operating trading accounts for Ontario residents through the Vantage platform contrary to s. 53(1) of the Act. Since VIG similarly did not file a prospectus and was not registered with the Commission, VIG's conduct, which spanned from July 2019 to September 2020, also constituted unregistered trading and making distributions contrary to the Act.

- [9] During the material time (January 2014-September 2020), Vantage earned approximately USD \$3 million in revenue from the Ontario accounts.
- [10] As part of the Settlement Agreement, the parties have agreed to the following:
- a. the Respondents will pay an administrative penalty in the amount of \$600,000;
 - b. the Respondents will disgorge to the Commission "an amount in Canadian currency sufficient to purchase USD \$3 million at a bank in Ontario listed in Schedule I to the *Bank Act* (Canada)² on the day the payment is made";
 - c. the Respondents will pay costs to the Commission in the amount of \$10,000; and
 - d. VIG will comply with the terms of an undertaking, set out in Schedule "B" to the Settlement Agreement, to:
 - i. either return unclaimed funds that remain in Ontario accounts or, if it cannot do so, donate those funds to Junior Achievement Canada or a similar registered charity; and
 - ii. certify to Staff on each of April 1, 2022 and April 1, 2023, that VIG does not have any open Ontario accounts and has policies and procedures in place to prevent it from opening any.
- [11] The Respondents agreed to pay the monetary sanctions and costs in advance of this hearing. Staff confirmed that the Respondents have done so.

III. LAW AND ANALYSIS

- [12] The Commission's role at a settlement hearing is to determine whether the terms of the settlement fall within a range of reasonable outcomes and whether the approval of the settlement is in the public interest.³
- [13] The Settlement Agreement is the result of lengthy negotiations between Staff and the Respondents, who were ably represented by counsel. The Commission respects the negotiation process and accords significant deference to the resolution reached by the parties.⁴
- [14] Settlements serve the public interest in resolving regulatory proceedings promptly, efficiently and with certainty. Settlements avoid the significant resources that would be incurred in a contested proceeding, especially when respondents are located outside of Canada, as is the case here.

² SC 1991, c 46

³ *Research in Motion Limited (Re)*, 2009 ONSEC 19, (2009) 32 OSCB 4434 at paras 45-46

⁴ *Ava Trade Ltd (Re)*, 2019 ONSEC 27, (2019) 42 OSCB 6520 (***Ava Trade***) at para 8

- [15] We have reviewed the Settlement Agreement in detail and considered the submissions of counsel for the parties. We also conducted a confidential settlement conference with counsel for the parties during which we reviewed the proposed settlement agreement, asked questions of counsel and heard their submissions.
- [16] In assessing whether it is in the public interest to approve the settlement, we considered various mitigating factors and determined that the sanctions as set out in the Settlement Agreement were within a range of reasonable outcomes.
- [17] The breaches of Ontario securities law in this matter are serious. Registration and prospectus requirements are cornerstones of Ontario securities law and serve an important purpose.⁵ Registration is designed to ensure that those who sell or promote securities are proficient, solvent and act with integrity.⁶ The prospectus requirement ensures that investors receive proper disclosure about the securities in which they invest.⁷ Unregistered trading and illegal distributions undermine investor protection and the integrity of the capital markets.⁸
- [18] VGP and VIG were each licensed in a foreign jurisdiction but not registered in Ontario. Approval of the Settlement Agreement will deliver a strong regulatory message that foreign trading platforms must comply with Ontario securities law when they trade with Ontario residents. If they participate in Ontario's capital markets, they cannot avoid their Ontario regulatory obligations by relocating their operations to other foreign jurisdictions.
- [19] We believe the monetary sanctions agreed to by the parties are proportionate to the conduct at issue. Of note, the disgorgement order, which reflects the USD \$3 million in revenue generated from the Ontario accounts, as well as VIG's undertaking to return or donate the remaining funds in the Ontario accounts, sends a clear message to market participants that the Respondents will not be permitted to retain any financial benefit from breaching the Act.
- [20] We considered the following mitigating factors to be particularly relevant in this case:
- a. the Respondents provided all information requested by Staff thoroughly and responsively, maintained an open dialogue with Staff, and addressed Staff's concerns and requests for additional information promptly and thoroughly; and
 - b. the Respondents have taken a number of remedial steps to address their conduct, including:
 - i. as of August 31, 2020, VIG ceased to open accounts for Canadian investors;
 - ii. Canada has been removed from the list of countries that prospective clients can select from during the online account opening process on the Vantage website;

⁵ *Ava Trade* at para 4

⁶ *Fauth (Re)*, 2021 ONSEC 4, (2021) 44 OSCB 739 (**Fauth**) at para 24

⁷ *MRS Sciences Inc (Re)*, 2014 ONSEC 14, (2014) 37 OSCB 5611 at para 88

⁸ *Fauth* at para 24

- iii. the Vantage website states that it does not offer services to residents of Canada;
- iv. as of September 11, 2020, VIG notified all existing Canadian investors that it had begun to wind down its business in Canada and, as a result, all Canadian investor accounts would be closed by no later than November 30, 2020;
- v. all Canadian accounts were closed as of November 30, 2020; and
- vi. Canadian investors were able to transfer all assets out of their accounts without any withdrawal fees, transaction fees, or other charges.

IV. CONCLUSION

- [21] In our view, the terms of the Settlement Agreement fall within a range of reasonable dispositions in the circumstances and will have a significant deterrent effect on the Respondents and others. The Settlement Agreement, including the undertaking, holds the Respondents accountable for their actions and furthers the protective and preventive purposes of the Act.
- [22] For these reasons, we conclude that the Settlement Agreement is in the public interest. We approve the Settlement Agreement on the terms proposed by the parties and will issue an order substantially in the form requested.

Dated at Toronto this 14th day of July, 2021.

"Lawrence P. Haber"

Lawrence P. Haber

"Craig Hayman"

Craig Hayman

"Frances Kordyback"

Frances Kordyback