



Ontario
Securities
Commission

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File No. 2020-33

**IN THE MATTER OF
TREVOR ROSBOROUGH, TAYLOR CARR and DMITRI GRAHAM**

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

Hearing: August 25, 2021

Decision: August 25, 2021

Panel: M. Cecilia Williams Commissioner and Chair of the Panel

Appearances: Alvin Qian For Staff of the Commission

Greg Temelini For Trevor Rosborough

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ORAL REASONS FOR APPROVAL OF A SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the reasons delivered orally in the hearing as edited and approved by the panel, to provide a public record of the oral reasons.

I. OVERVIEW

- [1] Staff of the Ontario Securities Commission (**Staff** of the **Commission**), and Trevor Rosborough have jointly submitted that it would be in the public interest for me to approve a settlement agreement entered into between Mr. Rosborough and Staff dated July 28, 2021 (the **Settlement Agreement**) regarding allegations described in the Statement of Allegations dated January 22, 2021.
- [2] This matter concerns allegations that Mr. Rosborough, while suspended from registration as a mutual fund dealing representative, obtained material, non-public information (**MNPI**) relating to a major expansion of WeedMD Inc. (**WeedMD**) from Taylor Carr, an employee of WeedMD and, during the period of November 10, 2017 to November 21, 2017 (the **Material Time**), Mr. Rosborough traded in WeedMD shares and tipped two of his clients in contravention of Ontario securities laws and contrary to the public interest.
- [3] After considering the Settlement Agreement and the submissions of the parties, I concluded that it would be in the public interest to approve the Settlement Agreement. These are my reasons.

II. SUMMARY OF THE FACTS

- [4] The underlying facts and specific breaches of Ontario securities law are fully set out in the Settlement Agreement, which has been filed with the Commission and is publicly available. Accordingly, I do not need to repeat them in detail here.
- [5] In summary:
 - a. WeedMD is a reporting issuer in Ontario and is listed and publicly traded on the Toronto Venture Exchange;
 - b. WeedMD had entered into an arrangement that was expected to transform their cannabis operations in a material way by significantly increasing WeedMD's annual production of cannabis (the **Expansion**);
 - c. the Expansion was material to WeedMD. After details of the Expansion were generally disclosed, the closing price of WeedMD's shares rose by 33% over the previous day's closing price. WeedMD filed a material change report regarding the Expansion on November 27, 2017;
 - d. Mr. Rosborough knew that Mr. Carr worked for WeedMD and Mr. Carr was the only person Mr. Rosborough knew to be employed by WeedMD during the Material Time;
 - e. during the Material Time, Mr. Carr communicated the MNPI to Mr. Rosborough and Mr. Rosborough subsequently confirmed WeedMD was set to announce the Expansion through Mr. Carr;
 - f. during the Material Time, Mr. Rosborough, with knowledge of the MNPI:

- i. bought 1,090 WeedMD shares in his personal account, paying \$1.36 per share for a total amount of \$1,492.39;
 - ii. advised Client A that he had received MNPI from the head grower at WeedMD and that they needed to buy WeedMD shares before next Friday and sell Friday, and told Client A's spouse about the delayed announcement of the Expansion; and
 - iii. communicated the MNPI to Client B;
 - g. Client B and Client A both bought WeedMD shares during the Material Time; and
 - h. Mr. Rosborough sold all of his WeedMD shares on November 22, 2017, after general disclosure of the Expansion, for a profit of \$492.32, representing a return of approximately 33% from his insider trading of WeedMD shares.
- [6] As part of the Settlement Agreement, the parties agreed to the following sanctions:
- a. an eight-year ban from participating in the capital markets;
 - b. disgorgement of his profit of \$492.32 to the Commission;
 - c. an administrative penalty of \$35,000;
 - d. costs of \$5,000; and
 - e. a reprimand of Mr. Rosborough.
- [7] Mr. Rosborough agreed to pay the administrative penalty and costs, and to disgorge his profit, in the total amount of \$40,492.32, in advance of the hearing. Staff confirmed that he had done so.

III. LAW AND ANALYSIS

- [8] 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.¹
- [9] The Settlement Agreement is the product of negotiations between Staff and the Respondent. The Commission respects the negotiation process and accords significant deference to the resolution reached by the parties.²
- [10] 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 and promote timely statements regarding regulatory requirements and standards to all capital markets participants.
- [11] I have reviewed the Settlement Agreement in detail and considered the submissions of counsel for the parties. I have also conducted a confidential settlement conference with counsel for the parties during which I reviewed the proposed settlement agreement, asked questions of counsel and heard their submissions.

¹ *Seemann (Re)*, 2018 ONSEC 28, (2018) 41 OSCB 4550 at para 9

² *The Toronto-Dominion Bank (Re)*, 2019 ONSEC 29, (2019) 42 OSCB 7273 at para 6

- [12] The breaches of Ontario securities law in this matter are serious. The Act's prohibition against insider trading aligns with two of the fundamental purposes of the Act – protecting investors from unfair, improper or fraudulent practices and fostering fair, efficient and competitive markets and confidence in the capital markets.³ The prohibition exists for three principal reasons:
- a. fairness requires that all investors have equal access to information about an issuer that would likely affect the market value of the issuer's securities;
 - b. insider trading may undermine investor confidence in the capital markets; and
 - c. capital markets operate efficiently on the basis of timely and full disclosure of all material information.⁴
- [13] Similarly, the Act prohibits tipping as it undermines confidence in the marketplace by giving a tippee an unfair advantage.⁵
- [14] Mr. Rosborough acknowledges and admits that he engaged in illegal insider trading and tipping, contrary to subsections 76(1) and 76(2) of the Act and acted contrary to the public interest.
- [15] Mr. Rosborough has been granted substantial credit for cooperation for entering into the Settlement Agreement, including his undertaking to cooperate with Staff in any proceeding commenced by Staff relating to the matters covered in the Settlement Agreement or the Statement of Allegations, and to meet with Staff in advance of any such proceeding to prepare for that testimony.
- [16] In arriving at my decision, I have considered the totality of the circumstances, including:
- a. the seriousness of the offences; and
 - b. Mr. Rosborough's:
 - i. experience in the marketplace as a registrant with the Commission for over 11 years;
 - ii. previous sanctions for misconduct;
 - iii. agreement to pay the administrative penalty and costs and to disgorge his illegal profit, in accordance with an acceptable timetable that has all such amounts paid in full by September 15, 2021; and
 - iv. recognition of the seriousness of his misconduct and his remorse for his actions.

IV. CONCLUSION

- [17] In my view, the terms of the Settlement Agreement fall within a range of reasonable dispositions in the circumstances and will have a significant deterrent

³ *Securities Act*, RSO 1990, c S.5, s 1.1

⁴ *Hutchinson (Re)*, 2019 ONSEC 36, (2019) 42 OSCB 8543 at para 97

⁵ *Rankin (Re)*, 2008 ONSEC 6, (2008) 31 OSCB 3303 at para 26

effect on Mr. Rosborough, as well as act as a general deterrent to other like-minded persons or entities from engaging in similar misconduct.

- [18] In my view, the administrative penalty, although significant relative to the amount of the illegal profit made, is appropriate in the circumstances, in particular given Mr. Rosborough's lengthy registration history and the fact that this is not the first time he has engaged in misconduct in the capital markets.
- [19] An order for disgorgement is appropriate in this instance. Mr. Rosborough admits that he engaged in illegal insider trading and it is appropriate that amounts he obtained through that activity be disgorged.
- [20] In my view, the administrative penalty and market access bans appropriately reflect the principles applicable to sanctions, including the importance of fostering investor protection and confidence in the capital markets, recognition of the seriousness of the misconduct and the need for specific and general deterrence of such misconduct.
- [21] For these reasons, I conclude that the Settlement Agreement is in the public interest. I 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 25th day of August, 2021.

"M. Cecilia Williams"

M. Cecilia Williams