



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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File Nos.: 2022-09

**IN THE MATTER OF
BRIDGING FINANCE INC., DAVID SHARPE, NATASHA SHARPE AND ANDREW
MUSHORE**

NOTICE OF MOTION

(For dismissal of the Abuse of Process Motions of David Sharpe and Natasha Sharpe)

A. ORDER SOUGHT

The Moving Party, the Ontario Securities Commission (**OSC**), requests, with notice, that the Capital Markets Tribunal (**Tribunal**) make an order:

- a) that this motion be conducted in writing;
- b) dismissing the Motions of David Sharpe dated October 21, 2022 and Natasha Sharpe dated November 24, 2022, returnable May 23, 2023, (each an **AOP Motion** and, together, the **AOP Motions**) which seek to stay this proceeding as against David Sharpe and Natasha Sharpe; and
- c) such further relief as the OSC may advise and the Tribunal may permit.

B. GROUNDS

The grounds for this motion are as follows:

The Abuse of Process Motions

1. On October 21, 2022, David Sharpe delivered a Motion Record for his AOP Motion and requested an order staying these proceedings against him as an abuse of process. On November 24, 2022, Natasha Sharpe delivered a Notice of Motion for her AOP Motion and requested an order staying these proceedings against her as an abuse of process;
2. The AOP Motions claim that the OSC's filing of the Sharpes' compelled testimony in a receivership proceeding brought by the OSC in the Ontario Superior Court of Justice (the **Court**) under section 129 of the *Securities Act* (the **Receivership Proceeding**), without first obtaining an order from the Tribunal under section 17 of the *Securities Act*, is tantamount to an abuse of process in this proceeding;

The Disclosure Motions

3. On November 24, 2022, David Sharpe delivered a Motion Record seeking disclosure of materials and information that he claimed were relevant to his AOP Motion;
4. On December 2, 2022, Natasha Sharpe delivered a Motion Record seeking disclosure of documents and other materials and information that she claimed were relevant to her AOP Motion;
5. The Sharpes' motions for disclosure were heard by the Tribunal on January 30, 2023 (the **Disclosure Motions**). The Motion Records filed by David Sharpe and Natasha Sharpe for their AOP Motions were part of the Motion Record for the Disclosure Motions;
6. The Tribunal dismissed the Disclosure Motions with its reasons to follow;

The Disclosure Decision

7. On February 21, 2023, the Tribunal released its reasons for dismissing the Disclosure Motions (the **Disclosure Decision**). The basis for the Disclosure Decision is summarized in paragraph 21 of the Disclosure Decisions, in which the Tribunal held that there were "several reasons each of which independently shows that the moving parties have not demonstrated a "tenable case" of abuse of process";

8. The reasons the Tribunal referred to include: (i) the impugned disclosure took place in the Receivership Proceeding, not this enforcement proceeding (para. 24), (ii) the impugned disclosure does not violate the community's sense of fair play and decency, particularly given that such disclosure is now authorized by the *Securities Act* and is expressly permitted in this enforcement proceeding (para. 25 and 26), (iii) the impugned disclosure will not impact the fairness of this enforcement proceeding (para 27 to 30), and (iv) there is no evidence of bad faith (para 31 to 37);
9. On February 22, 2023, the OSC wrote to counsel for the Sharpes and asked them to advise whether, in light of the Disclosure Decision, the Sharpes intended to proceed with the AOP Motions. To date, there has been no response from counsel for the Sharpes;
10. The AOP Motions are currently scheduled to be heard on May 23, 2023 at 10:00AM;
11. The AOP Motions should be summarily dismissed because:
 - a. The Tribunal has already ruled that the AOP Motions have no reasonable prospect of success, and are, therefore, frivolous; and
 - b. The AOP Motions will needlessly add to the time and costs expended by the parties and the Tribunal in this proceeding;
12. The Tribunal has the jurisdiction to summarily dismiss the AOP Motions because it has the authority to control its own process and to prevent abuse of its processes at common law and under the *Statutory Powers Procedure Act*, R.S.O. 1990, C. S.22 (the **SPPA**);
13. This motion should be heard in writing because there are no facts at issue and the legal issues were all fully canvassed and decided in the Disclosure Decision. The OSC simply asks that the Tribunal now apply its conclusions in the Disclosure Decision to dismiss the AOP Motions. Further, counsel for the respondents have limited availability to schedule an oral hearing for this motion prior to the schedule hearings for the AOP Motions on May 23, 2023;
14. Rules 1, 3, 23(3), and 28 of the Rules;

15. Sections 23 and 25.0.1 of the SPPA; and
16. Such further and other grounds as the OSC may advise and the Tribunal may permit.

C. EVIDENCE

The following evidence will be relied on at the hearing:

- a. Motion Records filed in this proceeding in the AOP Motions and the Disclosure Motions;
- b. The Tribunal's Disclosure Decision; and
- c. Such other evidence as counsel may advise and the Tribunal may permit.

March 16, 2023

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