Capital Markets Tribunal | Tribunal des marchés financiers | 22nd Floor, 20 Queen Street West, Toronto ON M5H 3S8 | 22e étage, 20, rue Queen ouest, Toronto ON M5H 3S8

Citation: *Paramount Equity Financial Corporation (Re)*, 2023 ONCMT 20
Date: 2023-05-29
File No. 2019-12

IN THE MATTER OF
PARAMOUNT EQUITY FINANCIAL CORPORATION, SILVERFERN SECURED MORTGAGE FUND, SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP, GTA PRIVATE CAPITAL INCOME FUND, GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP, SILVERFERN GP INC., TRILOGY MORTGAGE GROUP INC., MARC RUTTENBERG, RONALD BRADLEY BURDON and MATTHEW LAVERTY

REASONS AND DECISION

(Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5)

Adjudicators:	Timothy Moseley (chair of the panel) Cathy Singer Geoffrey D. Creighton	
Hearing:	By videoconference, October 6, 2022, and February 6, 2023; final written submissions received March 10, 2023	
Appearances:	Mark Bailey	For Staff of the Ontario Securities Commission
	Wendy Sun	For Matthew Laverty
	Written submissions filed by	Ronald Bradley Burdon
	No one appearing for the remaining respondents	

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REASONS AND DECISION

1. OVERVIEW

[1] This is the sanctions and costs stage of an enforcement proceeding that is about raising money from investors to fund mortgages. Staff's allegations centred on the respondent Paramount Equity Financial Corporation (**Paramount**) and related entities. Paramount was a licensed mortgage broker and administrator.

[2] In a merits decision,[1] this Tribunal found the following violations of Ontario securities law:

a. Paramount, the three respondent entities whose name includes "Silverfern", and the two respondents whose name includes "GTA", (collectively, the **Paramount Entities**), and the three individual respondents (Marc Ruttenberg, Ronald Bradley Burdon and Matthew Laverty) perpetrated securities-related frauds in three ways:

   i. all of them misrepresented the use to which investors' funds would be put, in that only $20 million of the $70 million raised was used for residential second mortgages as promised, with the remaining $50 million being used to fund higher-risk mortgages for properties that were to bear multi-residential units but that had not yet been developed or that had been developed for other purposes and were to be redeveloped;

   ii. Ruttenberg, Burdon and Laverty improperly acquired ownership interests in the multi-residential projects; and

   iii. all of them committed, or are liable for others committing, a misuse of a pre-paid account;

b. all respondents engaged in, or are liable for others engaging in, the business of trading securities without being registered to do so; and

[1] 2022 ONSEC 7

c. all respondent entities except Trilogy Mortgage Group Inc. (**Trilogy**) distributed securities without a prospectus, and Ruttenberg, Burdon and Laverty are liable for those violations as well.

[3] Staff now asks that we impose sanctions against the respondents, except Trilogy. Staff also asks that we order Ruttenberg, Burdon and Laverty to pay a portion of the Commission's costs of the investigation and this proceeding.

[4] For the reasons set out below, we conclude that it would be in the public interest to order that:

a. Ruttenberg and Burdon jointly and severally disgorge to the Commission $43,610,000;

b. Laverty, jointly and severally with Ruttenberg and Burdon, disgorge to the Commission $13,000,000 of that $43,610,000;

c. Ruttenberg, Burdon and Laverty pay administrative penalties of $1,500,000, $1,000,000 and $500,000, respectively;

d. Ruttenberg and Burdon jointly and severally pay $600,000 of the Commission's costs connected with the investigation and this proceeding;

e. Laverty, jointly and severally with Ruttenberg and Burdon, pay $175,000 of that $600,000; and

f. the respondents be subject to market-participation bans (*e.g.*, prohibitions against trading, and against acting as directors and officers), as explained further below.

[5] We begin with preliminary comments about the respondents' participation in this proceeding. We then review the legal framework for sanctions and explain how the facts of this case lead us to the sanctions that we have decided would be appropriate. We then consider Staff's request for costs.

2. PARTICIPATION IN THE PROCEEDING

[6] Laverty appeared in person at the merits hearing and at this sanctions and costs hearing. At both hearings, he introduced evidence and made submissions.

[7] Burdon filed written submissions only on sanctions and costs but did not otherwise attend the merits hearing or this sanctions and costs hearing. In his

submissions, he tried to re-litigate issues that the merits panel had already determined. He also made factual assertions unsupported by evidence, as well as irrelevant statements. We accepted Staff's objection to Burdon's factual assertions, and we ruled them inadmissible. They were not introduced as sworn evidence and could not be tested by cross-examination. However, we have considered Burdon's legal arguments.

[8] Ruttenberg and the other respondents did not appear, adduce evidence, make submissions or participate in any other way in this proceeding.

3. ANALYSIS – SANCTIONS

3.1 Introduction

[9] We begin our analysis by reviewing the legal framework for sanctions.

[10] The Tribunal may impose sanctions under s. 127(1) of the *Securities Act*[2] (the **Act**) where it finds that it would be in the public interest to do so. The Tribunal must exercise that jurisdiction in a manner consistent with the Act's purposes, which include the protection of investors from unfair, improper or fraudulent practices, and the fostering of fair and efficient capital markets.[3]

[11] The sanctions listed in s. 127(1) of the Act are protective and preventative, and are intended to be exercised to prevent future harm to Ontario's capital markets.[4]

[12] Sanctions must be proportionate to the respondent's conduct in the circumstances of the case.[5] Fashioning the appropriate sanctions is a highly contextual exercise that is dependent on the facts and findings in the particular case. We refer below to decisions of the Tribunal in other cases, which are helpful but of limited precedential value when determining the appropriate length of a market ban or the amount of a financial sanction.[6]

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[2] RSO 1990, c S.5

[3] Act, s. 1.1

[4] *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 42-43

[5] *Bradon Technologies Ltd. (Re),* 2016 ONSEC 19 at para 28; and at para 47, citing *Cartaway Resources Corp (Re)*, 2004 SCC 26 at para 60

[6] *Quadrexx Hedge Capital Management Ltd (Re),* 2018 ONSEC 3 (***Quadrexx***) at para 20

[13] We break our sanctions analysis down into three sections:

a. a consideration of factors applicable to sanctions generally;

b. our analysis of Staff's request for financial sanctions, being disgorgement orders and administrative penalties; and

c. our analysis of Staff's request for restrictions on participation in the capital markets (including prohibitions against trading, and against acting as directors and officers).

3.2 Factors relevant to sanctions

3.2.1 Introduction

[14] We start by reviewing the factors applicable to the determination of appropriate sanctions. In previous decisions, the Tribunal has identified a non-exhaustive list of factors, which include:

a. the respondents' level of activity in the marketplace;

b. the seriousness of the misconduct;

c. whether the respondents benefited (*e.g.*, made a profit or avoided a loss) from the misconduct;

d. whether the misconduct was isolated or recurrent;

e. the respondents' experience in the marketplace;

f. any mitigating factors; and

g. the likely effect that any sanction would have on the respondent ("specific deterrence") as well as on others ("general deterrence").[7]

[15] The Tribunal has also held that a respondent's inability to pay may be relevant when determining appropriate financial sanctions. We return to this factor below in our analysis of the financial sanctions that Staff requests in this case. We first address in turn each of the above seven factors applicable to sanctions generally.

[7] *Belteco Holdings Inc (Re)*, (1998) 21 OSCB 7743 at 7746

3.2.2 The respondents' level of activity in the marketplace

[16] The first of the seven factors listed above is often referred to as "the respondents' level of activity in the marketplace". More precisely, it is a collection of characteristics about the activity that made up the contravention. Such characteristics typically include one or more of: the dollar amount, the number of investors affected, the number of individual breaches, the duration of the misconduct, and the extent of the particular respondent's participation in the improper conduct.[8]

[17] The amount of the fraud here was at the higher end of the scale of cases that come before this Tribunal. In fact, it was second in size only to that in *Sino-Forest Corporation (Re)*.[9] The fraud in this case involved approximately $50 million that was diverted to fund the multi-residential mortgages. Almost $5 million was diverted through a pre-paid account that had been established and funded to address particular interest contingencies, but was then used for unauthorized purposes such as operating expenses and payments of pre-existing loans.

[18] The number of distinct investors affected by the misconduct was also large. More than 500 investors invested through more than 800 separate distributions, over several years. These are large numbers of investors and distributions. The illegal distributions and the improper trading were extensive.

[19] By all of these measures, the respondents' overall level of activity in the marketplace was high. However, we must distinguish among the individual respondents with respect to their participation in the improper conduct.

[20] Ruttenberg and his wife were Paramount's sole shareholders and directors. Ruttenberg was Paramount's CEO and principal broker. He focused on the sale of fund units to investors. He ran the business. Even when Burdon and Laverty tried to take control of Paramount, Ruttenberg was unwilling to relinquish control. Ruttenberg owned 50% of Silverfern GP Inc., the general partner in the

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[8] *North American Financial Group Inc (Re)*, 2014 ONSEC 28 (***North American Financial***) at paras 39-40

[9] 2018 ONSEC 37 (***Sino-Forest***)

limited partnership in which the Silverfern fund's assets were invested. Ruttenberg was front and centre in all the misconduct.

[21] Burdon also played a central role. He was Senior Vice President – Real Estate Development. He brought the problematic multi-residential mortgage projects to the business. He was responsible for verifying that project milestones were met before funds were advanced, and for reviewing marketing material before it was sent to investors. Like Ruttenberg, he owned 50% of Silverfern GP Inc.

[22] In contrast, Laverty testified that he had no control or decision-making authority over the funds, that he had no involvement in management other than finding sales opportunities for Paramount with institutional lenders, and that Ruttenberg was Paramount's sole decision maker. He did not deal with investors, although he shared with Burdon the responsibility to review marketing material. Laverty emphasizes that he did not have timely or complete access to Paramount's financial information, including regarding the two funds. He had no ownership interest in Silverfern GP Inc., but did have an ownership interest (half that of Ruttenberg and of Burdon) in the group of companies through which the individual respondents engaged in hidden self-dealing. We therefore conclude that while Laverty also played a central role in the business, and was a signatory to the offering memorandum, he was less active in the misconduct.

3.2.3 Seriousness of the misconduct

3.2.3.a Introduction

[23] In considering the seriousness of the respondents' misconduct, we focus on two characteristics that are particularly relevant in this case:

a. the type of contraventions; and

b. the individual respondents' frame of mind when they engaged in the misconduct.

3.2.3.b The type of contraventions

3.2.3.b.i Fraud

[24] Fraud is one of the most egregious violations of securities laws. It can cause direct harm to investors, and it undermines confidence in the capital markets.[10]

[25] The Tribunal found that the Paramount Entities and the three individual respondents perpetrated fraud in three ways.

[26] First, investors were promised in various written materials that their funds would be invested in second mortgages on residential properties of up to 85% loan-to-value, and that the investment would be low-risk and provide a high return. However, the actual portfolio did not resemble what was promised. Only $20 million of the $70 million raised was used for residential second mortgages. The remaining $50 million funded higher-risk mortgages for undeveloped land or for redevelopment of land to new uses. In some instances, the loan-to-value ratio far exceeded 100%. In addition, the portfolio was highly concentrated in loans to entities controlled by one individual, and not all mortgages were properly registered.

[27] Second, the individual respondents engaged in hidden self-dealing by obtaining undisclosed indirect ownership interests in certain projects financed by multi-residential mortgages using investors' funds.

[28] Third, a pre-paid account, meant to be used for amounts that would ultimately benefit investors, was instead used to cover Paramount's operating costs and to repay prior loans to Paramount and to Ruttenberg, unrelated to Silverfern. Paramount's Chief Financial Officer sought approval from Burdon and Laverty each time such a payment was made. Burdon routinely approved the payments. There is no evidence that Laverty ever responded, but neither did he object or otherwise try to stop the practice.

[29] These frauds were serious. They defeated the expectations of investors and were not consistent with how those investors had been told their funds would be applied.

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[10] *Money Gate Mortgage Investment Corporation (Re)*, 2021 ONSEC 10 (***Money Gate***) at para 14

3.2.3.b.ii Engaging in the business of trading without being registered

[30] The merits panel also concluded that the respondents engaged in the business of trading without being registered.

[31] The registration requirement is a cornerstone of Ontario's securities regulatory regime, designed to ensure that those who engage in the business of trading in securities are proficient and solvent, and that they act with integrity. Unregistered trading defeats these necessary legal protections and undermines investor protection and the integrity of the capital markets.

[32] The respondents' breach in this case was serious. The many trades were all effected without any of the protections that the presence of a registered dealer would have provided.

3.2.3.b.iii Distributing securities without a prospectus

[33] The merits panel found that all respondents except Trilogy were involved in illegal distributions of units of the Silverfern funds.

[34] The prospectus requirement is another cornerstone of Ontario's securities regulatory regime. A prospectus is fundamental to protecting investors because it ensures that they have full, true and plain disclosure of information that equips them to properly assess the risks of an investment and make an informed decision.

[35] This was also a serious breach, as over 500 investors lacked the protection of the full, true and plain disclosure that a prospectus would have afforded.

3.2.3.c The individual respondents' frame of mind

[36] The final characteristic we consider in assessing the seriousness of the misconduct is the individual respondents' frame of mind at the time of that misconduct. Specifically, did the respondent deliberately set out to contravene Ontario securities law and to cause investor losses? Or did the respondent have a lesser mental state, one that still meets the test for a contravention but that falls short of a more serious and specific intention? All other things being equal, more deliberate misconduct will attract greater sanctions than will less advertent behaviour.

[37] In this case, the merits panel found that the three individuals knew the uses to which investors' funds were being put, and that they knew or ought to have known that those uses were not as promised in the offering memorandum.

[38] The uncontested evidence with respect to Ruttenberg and Burdon is that they deliberately and actively engaged in the three forms of fraud, and that they authorized the illegal distributions. The merits panel's conclusion about trading without registration was less serious – the panel found that Ruttenberg and Burdon at least acquiesced in the entities' misconduct, as opposed to deliberately committing the breach themselves.

[39] As for Laverty, the merits panel found that he:

a. like Ruttenberg and Burdon, at least acquiesced in the respondent entities' being in the business of trading without registration;

b. like Ruttenberg and Burdon, authorized the illegal distributions;

c. like Ruttenberg and Burdon, directly committed the frauds flowing from the misrepresentations and flowing from the ownership interests in the multi-residential mortgage projects; but

d. unlike Ruttenberg and Burdon, merely acquiesced in the misuse of the pre-paid account.

[40] On their face, Laverty's contraventions were therefore less serious overall than those of Ruttenberg and Burdon. In addition, the merits panel concluded from Laverty's testimony that he was "sincere in his efforts and honest in his intentions", but that he "took on a responsibility that he did not fully understand."[11] This finding does not relieve him of responsibility for the contraventions, but it makes his own misconduct less serious than it would otherwise be. Some of that misconduct was deliberate, but other elements resulted from his acquiescence or ineffective protest.

[11] Merits decision at para 105

3.2.4 Did the respondents benefit (*e.g.*, make a profit or avoid a loss) from the misconduct?

[41] The third of the seven factors listed above asks whether the respondents made a profit, or avoided a loss, as a result of their misconduct. We conclude that they did benefit.

[42] Almost all of the $50 million diverted from the uses promised in the offering memorandum was applied to fund multi-residential mortgages supporting real estate projects in which all three individual respondents had an indirect personal ownership interest. Almost $5 million was diverted through the pre-paid account to the benefit of Paramount, of which Ruttenberg and his wife were the sole shareholders.

[43] We cannot accept Laverty's testimony that Ruttenberg was the only person who benefited from the fraudulent misconduct. That position ignores the indirect benefit that accrued to Laverty through his 20% ownership in the parent company of the corporate group that held interests in the multi-residential mortgage projects.

3.2.5 Was the misconduct isolated or recurrent?

[44] The fourth of the seven factors asks whether the misconduct was an isolated instance or a recurring series of events.

[45] In this case, the misconduct recurred. The unregistered trading and illegal distributions involved over 800 separate distributions. The fraudulent diversion of funds to higher-risk mortgages occurred over approximately 70 discrete funding decisions. The individual respondents received undisclosed indirect ownership interests in 14 separate projects. There were at least 23 separate payments of investors' funds from the pre-paid account.

[46] On any definition, the improper transactions were numerous and recurrent.

3.2.6 The respondents' experience in the marketplace

[47] The fifth of the seven factors refers to the respondents' experience in the marketplace.

[48] We have no evidence concerning Ruttenberg's or Burdon's experience in capital markets.

[49] Laverty was hired by Paramount in 2014 after a successful career in the mortgage industry, but he had no previous experience in the securities industry.

3.2.7 Mitigating factors

[50] We turn now to identify any mitigating factors.

[51] We have no evidence of any mitigating factors with respect to Ruttenberg.

[52] Burdon did not adduce any admissible evidence of mitigating factors, although the merits panel's findings reflect a lower level of responsibility in the business for Burdon than for Ruttenberg. In addition, the fact that Burdon did not interact with investors is a mitigating factor, although a weak one, especially given that he worked to bring multi-residential mortgages to the portfolio.

[53] With respect to Laverty, we analyzed his role at paragraph [22] above. His lower level of responsibility, compared to that of Ruttenberg and Burdon, is already factored into our assessment of the seriousness of his misconduct. Laverty submits that we should also take into account that he made good faith efforts to rescue the situation, and that he actively co-operated with and assisted Staff's investigation from beginning to end, thereby saving Staff time and money, and leading to Staff's success. He says he voluntarily requested an interview early in the investigation, a fact which Staff concedes. These are mitigating factors.

[54] Laverty also states that he relied on the involvement of outside legal advisors and auditors. Staff responds that the supposed involvement of professionals has no connection to the merits panel's findings of wrongdoing and that Laverty has provided no particulars, reports or other evidence to establish that the advice was provided on the central issues relating to the contraventions.

[55] We conclude that Laverty overstates the importance of professional involvement and Staff understates it. While we understand that the presence of lawyers and auditors gave Laverty a sense of comfort in acquiescing to what the other individual respondents were doing, his comfort was misguided. The merits panel specifically found that he knew or ought to have known that investors' funds were not being invested as promised. Laverty himself expressed frustration with

the lack of timely information he received from Paramount's CFO, even after it became clear that Ruttenberg was misusing funds.

[56] Laverty also submits that we should give considerable weight to the fact that the merits decision included a dissenting opinion. We disagree. The majority's findings are the Tribunal's findings. The existence of a dissenting set of findings is not a mitigating factor.

[57] Laverty testifies that he is remorseful and that he acknowledges the seriousness of his misconduct. Staff disputes this, and submits that Laverty continues to attempt to deflect blame to others while failing to meaningfully confront what he has done.

[58] We conclude Laverty has expressed remorse, although it is evidenced only by statements to that effect. We are not persuaded, though, that Laverty fully acknowledges the seriousness of his misconduct. Despite the merits panel's finding to the contrary, Laverty persists in his position that he was not responsible for disclosing to investors the material difference between what was promised and the actual state of the portfolio; rather, he says, that was the responsibility of Ruttenberg and others.

3.2.8 Specific and general deterrence

[59] We address now the last item in our list of relevant factors, *i.e.*, specific and general deterrence.

[60] Specific deterrence aims to discourage a particular respondent from repeating their bad acts and engaging in further misconduct in the future. The purpose of general deterrence is to dissuade like-minded persons from engaging in similar conduct by demonstrating that such conduct is unacceptable and will not be tolerated.

[61] The misconduct in this case included fraud, unregistered trading and illegal distributions, three of the most serious sorts of misconduct. The sanctions we impose must be designed to deter similar behaviour. We are mindful of the principle that the important objective of general deterrence does not justify

sanctions that are punitive rather than protective,[12] but we must emphasize the particular importance of general deterrence for those who take on positions of responsibility in the capital markets, as the three individual respondents did.

[62] It is not acceptable for an individual who is a trustee, director or officer of an entity that solicits funds from the public to acquiesce to misconduct, or to be content with ineffective protest, as Laverty was. Similarly, it is not acceptable for an individual in such a position to assert that some of the obligations associated with their office belong to others and not to themselves. Such an approach to positions of responsibility and governance of a public issuer undermines confidence in the capital markets and exposes investors to impermissible risk.

3.2.9 Conclusion about factors to be considered

[63] We have reviewed the factors to be considered on sanctions (other than a respondent's ability to pay, which we discuss below) and we conclude that:

a. the respondents' level of activity in the market, or the size of the contravention, at approximately $50 million of misapplied funds, was at the higher end of the spectrum of similar cases brought before the Tribunal;

b. the misconduct involves three of the most serious contraventions under Ontario securities law and should attract proportionately serious sanctions, although Laverty's frame of mind at the time makes his misconduct less serious than that of the other individual respondents;

c. the respondents benefited from the misconduct at the time it occurred;

d. the misconduct was recurrent;

e. Laverty was inexperienced in the capital markets, but we have no evidence about Ruttenberg's and Burdon's experience;

f. it is a mitigating factor for Burdon that he was not directly involved in soliciting investors;

[12] *Quadrexx* at para 58

g. Laverty should benefit from a number of mitigating factors, discussed beginning at paragraph [53] above; and

h. we must consider the need for general deterrence (especially given the individuals' governance roles with respect to entities that were raising funds from the public) and specific deterrence.

[64] We now apply these conclusions to the specific sanctions that Staff seeks, beginning with financial sanctions.

3.3 Financial Sanctions

3.3.1 Introduction

[65] Staff seeks financial sanctions against all three individual respondents, in the form of both disgorgement and administrative penalties.

[66] Staff seeks no financial sanctions against any of the respondent entities. Because those entities, other than Trilogy, are in receivership, any financial sanctions would take away from the funds that would otherwise be available for distributions to investors by the receiver. As for Trilogy, because its activities were minimal and preliminary, and it ceased operations before it completed any sales of securities, Staff seeks no financial sanctions against it.

[67] We determine that it would be in the public interest to order both disgorgement and administrative penalties from each individual respondent, in different amounts that reflect their respective roles in the misconduct and the sanctioning factors we have laid out above.

[68] For reasons we explain more fully below:

a. Ruttenberg and Burdon shall be ordered to disgorge $43,610,000, jointly and severally;

b. Laverty shall be ordered to disgorge $13,000,000 of that amount, jointly and severally with Ruttenberg and Burdon; and

c. Ruttenberg, Burdon and Laverty shall be ordered to pay administrative penalties of $1,500,000, $1,000,000 and $500,000, respectively.

3.3.2 Disgorgement

3.3.2.a Legal framework

[69] We analyze first Staff's request that we order disgorgement of $43,610,000 against Ruttenberg, Burdon and Laverty, with their liability to be joint and several.

[70] Paragraph 10 of s. 127(1) of the Act authorizes the Tribunal to order that a respondent who has not complied with Ontario securities law disgorge to the Commission "any amounts obtained as a result of the non-compliance".

[71] As the Divisional Court has held, because the purpose of a disgorgement order is to restore confidence in the capital markets, the focus should be not on "whether the fraudsters pocketed the money for themselves", but rather on the fact that the money was improperly diverted at all.[13] A disgorgement order ensures that respondents do not benefit in any way from their contraventions of Ontario securities law, and it deters them and others from similar misconduct.[14]

[72] The Tribunal has stated that when considering whether a disgorgement order is appropriate, and if so in what amount, the following non-exhaustive list of factors applies:

a. whether an amount was obtained by a respondent as a result of the non-compliance with Ontario securities law;

b. the seriousness of the misconduct and whether that misconduct caused serious harm, whether directly to original investors or otherwise;

c. whether the amount obtained as a result of the non-compliance is reasonably ascertainable;

d. whether those who suffered losses are likely to be able to obtain redress; and

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[13] *North American Financial Group Inc v Ontario Securities Commission*, 2018 ONSC 136 (***North American Financial (Divisional Court)***) at para 218

[14] *Al-Tar Energy Corp (Re)*, 2011 ONSEC 1 (***Al-Tar***) at para 71

e. the deterrent effect of a disgorgement order on the respondents and on other market participants.[15]

[73] We will address each of these in turn.

[74] Following consideration of each of those factors and determination of an appropriate total disgorgement amount, we will turn to a consideration of the appropriate amount of disgorgement by each individual respondent.

3.3.2.b Did the respondents obtain an amount as a result of the non-compliance with Ontario securities law?

[75] The first of the five factors considers whether the respondents obtained an amount as a result of the non-compliance with Ontario securities law. This Tribunal has consistently held that the word "obtained" in s. 127(1)10 of the Act should be given its plain meaning, and that it is not confined to profit.[16]

[76] For there to be a disgorgement order against a particular respondent, there is no requirement to show that the amounts obtained as a result of the non-compliance flowed directly to that respondent. Even though a central purpose of disgorgement orders is to deprive wrongdoers of ill-gotten gains,[17] a respondent wrongdoer who benefits only indirectly rather than directly cannot raise the indirect nature of the benefit as a shield to a disgorgement order.[18]

[77] As the Divisional Court has held, the "issue of whether disgorgement orders should be limited to the amount that the fraudsters obtained personally, either directly or indirectly, has been litigated and lost."[19]

[78] In this case, the entire amount raised was obtained in contravention of the registration and prospectus requirements. In addition, approximately $50 million of those funds were diverted to uses other than those promised in the offering memorandum and in that sense were obtained by fraud.

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[15] *Pro-Financial Asset Management Inc (Re)*, 2018 ONSEC 18 (***PFAM***) at para 56

[16] *North American Financial* at paras 31 and 65

[17] *Limelight Entertainment (Re)*, 2008 ONSEC 28 at para 47

[18] *Solar Income Fund Inc (Re)*, 2023 ONCMT 3 (***Solar Income Fund***) at para 93

[19] *North American Financial (Divisional Court)* at para 217

[79] As for the individual respondents, even though an individual does not obtain funds directly, if that individual is a directing mind of a corporate (or similar) respondent that does, then the individual respondent who is a directing mind of the corporate respondent may be jointly and severally liable for a disgorgement order made against the corporate respondent.[20]

[80] The merits panel found that the three individual respondents were directing minds of the respondent entities. Accordingly, each of them is potentially liable to disgorge any amounts for which those entities could properly be liable. Ordinarily in those circumstances, a disgorgement order against the individual directing mind would not exceed that against the entity whose misconduct leads to the individual's liability. However, where, as here, Staff makes the appropriate decision not to seek disgorgement against an entity because any such order might deprive investors of recovery, it does not follow that the individual respondent should benefit from the same consideration.

[81] We will return to consider appropriate disgorgement orders against the individual respondents below.

3.3.2.c Seriousness of the misconduct and whether the misconduct caused serious harm

[82] The second factor considers the seriousness of, and harm caused by, the misconduct. We explained above why the misconduct in this case is very serious. As we have stated, fraud is one of the most serious contraventions of Ontario securities law, and the amount of the frauds in this case was significant. The frauds caused direct and serious harm to many investors. Most of their funds will be unrecoverable.

3.3.2.d Is the amount obtained as a result of the non-compliance reasonably ascertainable?

[83] The third factor asks whether the amount obtained as a result of the non-compliance is reasonably ascertainable. We conclude that it is.

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[20] *PFAM* at para 60

[84] Staff calculates its proposed disgorgement amount of $43,610,000 as follows:

a. the total amount raised from investors in contravention of the registration and prospectus requirements was $78,610,000 (including both the Silverfern Secured Mortgage Fund and the GTA Private Capital Income Fund);

b. from that amount, there should be deducted $30 million, being the amount that the receiver has recovered and distributed to investors;

c. of the $20 million that was properly invested in residential second mortgages and therefore not obtained by fraud, approximately $15.6 million was recovered by the receiver, and is therefore included in the $30 million recovery already deducted above, leaving $4.4 million that should be deducted from the disgorgement amount; and

d. that results in a disgorgement amount of $44,210,000.

[85] Staff has sought $43,610,000 ($600,000 less than the calculated amount), apparently by rounding the $4.4 million deduction referred to above to $5 million. We accept Staff's calculation of the total disgorgement amount as $43,610,000.

3.3.2.e Are those who suffered losses likely to be able to obtain redress?

[86] The fourth factor focuses on the prospect of recovery. The investors who suffered losses as a result of the respondents' misconduct in this case have achieved some recovery through the receivership of the Paramount Entities. That recovery has already been deducted in Staff's calculation of the disgorgement it seeks. We cannot be certain whether there will be any further recovery in the future. Accordingly, we base our decision on the facts as they stand today, without speculating about any future recoveries. As always, parties may apply to vary the Tribunal's order if circumstances warrant.

3.3.2.f Deterrent effect on the respondents and others

[87] The fifth factor considers deterrence. As we have discussed in our summary of factors relevant to sanctions, it is essential both for the protection of investors and for the promotion of confidence in the capital markets that those entrusted with investor funds faithfully and diligently carry out the obligations that arise in

connection with that trust. A disgorgement order in this case will stand as a powerful deterrent.

3.3.2.g Amount to be disgorged by individual respondents

[88] As we have explained above, we accept that the Paramount Entities obtained $43,610,000 in contravention of Ontario securities law. However, we need not order disgorgement of the full amount. We retain discretion to apply the factors and to order a lower amount of disgorgement, or none at all.[21]

[89] Staff submits that despite the differing levels of culpability among the three individual respondents, there is no proper basis for attributing any specific portion of the $43,610,000 to a particular respondent. Staff submits that the three individuals should be jointly and severally liable for the entire amount.

[90] We disagree. In *Sabourin (Re)*,[22] for example, the Tribunal was faced with several individual respondents who participated in different ways and to different degrees in the impugned misconduct. The panel noted that the Tribunal must consider all relevant circumstances, including the respondent's role, what the respondent knew or ought to have known, and what the respondent intended or believed.[23] A disgorgement amount should reflect, among other things, a respondent's degree of involvement and culpability.[24] A similar approach is appropriate in this case.

[91] We have discussed Ruttenberg's and Burdon's roles. They were central to the misconduct, and we have no evidentiary or other basis to reduce the disgorgement amount for which they should be liable.

[92] We have also discussed the distinct circumstances relating to Laverty. A lower disgorgement order would be appropriate against him, given:

a. the sincerity of his efforts;

b. his honest intentions;

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[21] *PFAM* at para 50; *Quadrexx* at para 47

[22] *Sabourin (Re)*, 2010 ONSEC 10 (***Sabourin***)

[23] *Sabourin* at para 56

[24] *Sabourin* at paras 69-73

c. his lower level of responsibility and ownership;

d. the fact that he did not deal with investors;

e. his cooperation with Staff; and

f. the fact that much of his potential liability arises from his role as trustee and signatory of the offering memorandum rather than as an individual actor who actively and directly committed the fraudulent acts.

[93] Subject to Laverty's claim of impecuniosity, which we address immediately below, we find that in light of the above factors, it would be appropriate to reduce his liability for disgorgement to approximately 30% of that for Ruttenberg and Burdon, or $13,000,000.

[94] Laverty asks us to take into account his inability to pay significant financial sanctions. Such an inability is a relevant factor to be considered in determining financial sanctions, although it is generally not the predominant or determining factor.[25] The onus is upon a respondent who cites inability to pay as a relevant factor to provide clear and complete evidence to show that inability.[26] It is a heavy burden for a respondent to demonstrate circumstances that are sufficient to relieve the respondent, partially or wholly, of what would otherwise be their financial sanctions.[27]

[95] Laverty submitted a detailed affidavit about his financial circumstances,[28] and Staff cross-examined him on that affidavit. Taken together, that evidence establishes that he has minimal assets and a negative net worth. He declared bankruptcy in 2019 and that proceeding is still pending. He testified that because of the allegation (now a finding) of fraud in this proceeding, he has not been able to work in the financial industry or any other regulated or licenced work environment. Since 2017 he has only managed to find odd jobs in construction and car dealerships. He can no longer work at car dealerships due to the requirement that he be licenced to do so. He currently relies on employment

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[25] *Rezwealth Financial Services Inc (Re)*, 2014 ONSEC 18 (***Rezwealth***) at para 69

[26] *VRK Forex & Investments Inc (Re)* 2022 ONCMT 28 at para 59

[27] *Solar Income Fund* at para 85

[28] We have marked that affidavit, sworn February 10, 2023, as exhibit 3 in this hearing

insurance. Laverty lives either at his brother's or his son's homes, depending on where he can find work.

[96] Staff suggested that he may have some financial entitlement arising from a home formerly owned and sold by his wife, from whom he has been separated since 2020.[29] Staff tested this suggestion at some length in cross-examination, but Laverty gave credible details of the ownership history of the property. Apart from Staff's suggestion, which was not borne out by persuasive evidence, Staff did not challenge any of Laverty's evidence of impecuniosity.

[97] Staff submits, however, that the Tribunal should evaluate Laverty's financial circumstances in the context of the significant losses inflicted on investors. His personal circumstances, Staff submits, are of his own making, caused by his own misconduct.

[98] The evidence supports Staff's submission. Laverty himself has advised that since the time of the investigation that gave rise to this proceeding, his standard of life has changed drastically, in part because of the employment challenges described above and the resulting decrease in income, and in part because of the legal fees he has incurred as a result of his involvement with the respondents.

[99] For these reasons, we cannot accept Laverty's submission that we should look to the Tribunal's recent decision in *Solar Income Fund (Re)* as a suitable precedent. In that case, the Tribunal found that one individual respondent had put forward "comprehensive" evidence of "compelling" circumstances of "an exceptional case" that justified making the respondent's inability to pay financial sanctions a significant factor for the Tribunal's consideration.[30] The compelling circumstances were extrinsic and unrelated to the financial difficulties that flow from involvement in a failed business enterprise that is the subject of securities enforcement proceedings. In contrast, Laverty's circumstances flow primarily, if not exclusively, from his involvement with the Paramount Entities and their failure in the face of enforcement proceedings. Given his age (49), Laverty still

[29] In respect of this submission, Staff filed the affidavit of Louisa Fiorini, dated March 9, 2023, which we have marked as exhibit 4 in this hearing

[30] *Solar Income Fund* at paras 80-85

has the ability to earn an income, even if not in the same range of options as before his involvement with the Paramount Entities.

[100] We agree with Staff that as in *MOAG (Re)*,[31] it would be perverse here to extend to Laverty the sympathy he seeks when his own misconduct significantly harmed investors and prevents them from experiencing a similar sort of relief. While Laverty has demonstrated his inability to pay the financial sanctions sought by Staff, that is a relevant, though not determining or predominant factor, in our assessment of the appropriate sanctions. Against Laverty's impecuniosity, we weigh the reasons for that impecuniosity, the size of the fraud and investor losses, and the need to send a clear message of general deterrence. Those factors outweigh his impecuniosity.

[101] Accordingly, we find that it is in the public interest to order that Laverty disgorge $13,000,000, the amount we reached above.

3.3.2.h Conclusion about disgorgement

[102] It is in the public interest to order that Ruttenberg and Burdon, jointly and severally, disgorge to the Commission $43,610,000, and, of that amount, Laverty shall be jointly and severally liable with Ruttenberg and Burdon to disgorge $13,000,000.

3.3.3 Administrative penalties

3.3.3.a Introduction

[103] We will now review Staff's request for administrative penalties. Staff seeks:

a. $1.5 million against Ruttenberg;

b. $1 million against Burdon; and

c. $750,000 against Laverty.

[104] We begin by summarizing the cases that Staff cited to us. We then analyze what administrative penalties would be appropriate in this case. We conclude that it is in the public interest to order an administrative penalty of $1.5 million against

[31] 2020 ONSEC 29 at para 89

Ruttenberg (as requested), $1 million against Burdon (as requested), and $500,000 against Laverty (instead of the $750,000 requested).

3.3.3.b Review of administrative penalties imposed in other cases

[105] Determining the amount of an administrative penalty is not a science. The parties cited precedent decisions to guide us in determining appropriate sanctions. Those precedents reflect a wide range of sanctions that vary according to the circumstances. The sanctions imposed in other cases, and the reasons for those sanctions, largely serve to suggest a possible range of penalties and a principled approach to determining appropriate penalties in this case.

[106] Staff referred us to a number of previous decisions involving fraud, and many of those decisions also involve registration and prospectus violations. Except for *Sino-Forest*, the amount of the fraud in each case is significantly less than the amount of the fraud in this case.

[107] In *Sino-Forest*, approximately three billion dollars were raised through an elaborate fraudulent scheme whereby Sino-Forest's assets and revenue were overstated. Allen Chan, the co-founder, chair of the board, and CEO of Sino-Forest, was ordered to pay a total administrative penalty of $5 million, calculated as $1 million per breach. The remaining respondents, each of whom held a senior position at Sino-Forest, were ordered to pay between $2 million and $2.65 million in administrative penalties.

[108] The amounts raised in the remaining cases referred to by Staff range from approximately $6 million in *Rezwealth Financial Services Inc (Re)*[32] to approximately $22 million in *Pogachar (Re)*[33].

[109] In *Rezwealth*, Blackett created a fraudulent Ponzi scheme where investment products were sold for purposes other than what investors were told, over a three-year period. He raised $3,018,649 from at least 56 investors. He was ordered to pay an administrative penalty of $500,000. Pamela Ramoutar, who was the directing mind of Rezwealth, was responsible for investment contracts sold to at least 45 investors for the purpose of investing with Blackett and

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[32] 2014 ONSEC 18 at paras 11 and 12

[33] 2012 ONSEC 23 (***Pogachar Sanctions***)

others, raising an additional $2,910,305. Pamela Ramoutar was ordered to pay an administrative penalty of $250,000; her son Justin Ramoutar, had a lesser degree of participation in the fraud and was ordered to pay an administrative penalty of $150,000.

[110] In *Pogachar*, the respondents raised $22,508,607 from approximately 600 investors. The offering documents provided that 80% to 85% of the proceeds of sale of the securities would be used to buy life insurance policies.[34] Instead, a substantial portion of the funds was used for personal and business expenses, and to pay dividends from newly raised funds rather than from a return on investments.[35] Each of the respondents was ordered to pay an administrative penalty of $750,000.[36]

[111] The administrative penalties ordered against individual respondents in the other cases referred to us by Staff ranged from $600,000 to $750,000.[37]

[112] Laverty submits that any administrative penalty against him should be lower than that sought by Staff. He drew our attention to *Al-Tar*. In that case, a total of $658,109 was raised from investors in a fraudulent investment scheme. The respondent Campbell was ordered to pay an administrative penalty of $750,000.[38] Laverty distinguishes his own circumstances because in *Al-Tar*, the merits panel found that Campbell lied to Staff, played an integral and leading role in perpetrating and orchestrating the fraud, and had been previously sanctioned by the Commission. The distinction is fair, but we cannot lose sight of the fact that the amount of funds raised in *Al-Tar* was less than 10% of the amount in this case.

3.3.3.c Conclusion regarding administrative penalties

[113] In determining what an appropriate administrative penalty would be, we must take a global view of all the sanctions we impose on each respondent individually, taking into account the disgorgement we order and the fact that the

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[34] 2012 ONSEC 9 (***Pogachar Merits***) at para 17

[35] *Pogachar Merits* at para 84

[36] *Pogachar Sanctions* at para 37

[37] See *Money Gate*; *Hibbert (Re)*, 2012 ONSEC 23

[38] *Al-Tar* at paras 12 and 48

respondents will be prohibited from participating in the capital markets. We must consider both specific and general deterrence, and the extent to which those objectives are achieved by the other sanctions we impose.[39]

[114] Staff submits that high administrative penalties are warranted, because each of the individual respondents was found to have committed multiple contraventions of Ontario securities law, including three distinct courses of conduct that were found to have been fraudulent. Staff also submits that high penalties are justified by the magnitude of the fraud.

[115] We agree with Staff's submission and proposed amounts in respect of Ruttenberg and Burdon, being $1.5 million and $1 million respectively. With respect to Laverty, we reiterate the factors mentioned in our disgorgement analysis, and we determine that it would be in the public interest to order an administrative penalty of $500,000. These penalties are proportionate to the respondents' misconduct, including, in particular, the amount of the fraud, the number of investors, and the role that each individual played. They also align with the range of administrative penalties imposed in the cases referred to us by the parties.

3.4 Restrictions on participation in the capital markets

[116] We turn now to consider Staff's request for permanent market restrictions against all respondents. While there is a court-appointed receiver over the respondent entities other than Trilogy, the receiver has confirmed that market restriction sanctions will not impede the receivership process.

[117] Laverty acknowledges that market restrictions would be appropriate against him, but he submits that in his case they should be limited to five years.

[118] Staff submits that the respondents cannot be trusted to participate in the capital markets in any way, even in the most limited capacity. With one exception that we discuss below, we agree. The scope of the misconduct, its serious and recurring nature, and the need to send a message of deterrence, all support permanent market restrictions. Such sanctions would be in keeping with previous

[39] *Quadrexx* at para 58

cases involving similar but smaller frauds,[40] and are necessary to protect investors and to restore the confidence in the capital markets that was undermined by the respondents' conduct.

[119] An exception is justified in respect of Laverty. We agree that he should be permanently prohibited from remaining, becoming or acting as a director or officer of an issuer or registrant, or becoming a registrant or promoter. His failure to understand or discharge his duties in a position of responsibility in a public issuer demonstrates that he should not be permitted to hold or assume such positions.

[120] However, we do not conclude that it is necessary to protect the capital markets that Laverty be subject to a permanent trading ban. His misconduct centred on his role as trustee and signatory of the offering memorandum, and his failures to discharge his responsibilities in a public issuer. His misconduct did not involve any personal trading or other trading conduct that calls for specific deterrence. We have noted other facts that distinguish his position from that of the other respondents. While he must be prohibited permanently from assuming roles of responsibility in capital markets, we conclude that trading prohibitions shall apply to Laverty for a period of five years.

3.5 Conclusion as to sanctions

[121] In explaining our conclusions on sanctions, we have addressed each element separately for clarity. However, we have also considered the sanctions in their totality, to ensure that as a whole they are proportionate to each respondent's conduct in the circumstances of the case.[41] We have crafted substantial sanctions to reflect the substantial nature of the misconduct.

4. ANALYSIS – COSTS

4.1 Introduction

[122] We turn now to Staff's request that the respondents pay a portion of the costs incurred by the Commission in this proceeding and in the investigation of this matter. Section 127.1 of the Act authorizes the Tribunal to order a respondent to

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[40] See, *e.g.*, *Money Gate; Quadrexx*

[41] *Pogachar Sanctions* at para 15, citing *MCJC Holdings Inc (Re)* (2002), 26 OSCB 8206 at para 56

pay the costs of an investigation and of the proceeding that follows it, if the respondent contravened Ontario securities law.

[123] Reimbursement of the Commission's costs by a respondent who contravenes Ontario securities law is reasonable, because the Commission's budget, including its enforcement budget, is paid by fees charged to registrants, issuers and others. A costs order is discretionary and is designed to reduce the burden on market participants to pay for investigations and enforcement proceedings.[42]

[124] Staff seeks costs of $682,421.76, with the three individual respondents being jointly and severally responsible for those costs. Laverty submits that Staff's billed time is patently excessive. He also distinguishes between his role and conduct and that of the other respondents. These distinctions, he submits, justify a minimal costs order against him, which is not joint and several with the other respondents.

[125] For reasons we explain below, we conclude that it would be appropriate to order that:

a. Ruttenberg and Burdon be jointly and severally liable to pay $600,000 of the Commission's costs connected with the investigation and this proceeding; and

b. Laverty be liable, jointly and severally with Ruttenberg and Burdon, to pay $175,000 of that $600,000.

4.2 Analysis

[126] Staff has provided an affidavit regarding costs and disbursements, which shows Staff's costs of the investigation, pre-hearing activities and merits hearing. The affidavit lists members of Staff (including outside counsel) who participated in each phase, the hourly rates previously adopted by the Tribunal for their positions, and the time spent by them. The costs incurred, including disbursements for which receipts were included, totalled $1,360,925.76.

[42] *Quadrexx* at para 118; *PFAM* at para 111

[127] Staff noted that this initial figure had already been reduced from actual costs incurred, by excluding a number of items including, primarily:

a. time spent by all members of Staff who recorded 35 or fewer hours;

b. time associated with the changeover of counsel and investigators on the file;

c. time attributable to the receivership proceeding;

d. time related to settlement discussions;

e. some of the time related to an expert report that was not admitted in its entirety;

f. time spent preparing affidavits for some witnesses; and

g. time spent preparing for the sanctions and costs hearing.

[128] Staff also reduced the rate charged by external counsel who were involved during one portion of the investigation and litigation. Staff instead used the rate of $205 per hour that this Tribunal has previously held to be appropriate for internal Staff counsel.

[129] Staff took this initial, already reduced amount of $1,360,925.76 and further reduced it by excluding the time of all junior litigators and non-lead investigators, so that it reflects only the time of one primary litigator and one primary investigator at any time. Services rendered by external counsel were included in this exercise, at the approved rate.

[130] After applying these further exclusions and adjustments, the costs sought by Staff total $682,421.76, being approximately 50% of the amount incurred.

[131] Although a respondent found to have contravened Ontario securities law should expect to pay costs, a large costs award can reasonably be viewed as punitive. The potential for such an award may adversely affect a respondent's willingness, and ability, to pursue a full defence. Further, as is the case with an administrative penalty, determining the amount of a costs award is not a

science. The Tribunal should apply a balanced approach that takes into account various factors.[43]

[132] Previous cases have noted a number of factors which are relevant in determining whether costs being sought are reasonable. Those factors, as they relate to this case, include some which overlap with factors discussed above, including the seriousness of the misconduct and the impecuniosity of a respondent. They also include matters related to the proceeding itself, including the complexity of the allegations and the length of the hearing, and the degree of success that Staff has in establishing its allegations. As noted in *Solar Income Fund (Re),* seriousness of the allegations is an indirect driver of complexity, which is a driver of length of, and resources required in, the proceeding.[44]

[133] Staff stresses that the misconduct in this case was serious, the investigation was necessarily long and complicated, and Staff was almost entirely successful. The elements of the allegations that were dismissed shared a common factual background with the proven allegations and did not materially lengthen or complicate the proceedings. Staff also stresses the significant discount of the costs it seeks, from costs actually incurred.

[134] In his written submissions, Burdon notes that Staff was largely unsuccessful in its allegations against Trilogy, yet included amounts attributable to Trilogy in its bill of costs. This is a valid observation, but it has little effect on the reasonableness of the total costs sought. Approximately $60,000 of costs are attributable to the investigation of Trilogy. The merits panel did find that Trilogy engaged in the business of trading without being registered. There is no basis to question the reasonableness of Staff investigating Trilogy. Staff has already significantly reduced its request for costs and we do not find it necessary to reduce the amount further.

[135] We note, however, that Staff's initial calculation of $1,360,925.76 was itself a figure derived from an undisclosed higher total, with the exclusion of a number of items, none of which was quantified in evidence. Among those exclusions was "time associated with the changeover of counsel and investigators on the file". A

[43] *Solar Income Fund* at para 166

[44] *Solar Income Fund* at para 175

changeover of counsel or of investigators can happen in the normal course, and neither Staff nor the Commission should be penalized for such an event. However, neither should respondents. A changeover inevitably causes duplication and inefficiencies that reverberate through a proceeding. Here, there was a change of both counsel and investigators. Without further insight in the evidence about how Staff adjusted its calculation of costs, we determine that it would be appropriate to reduce the costs sought to an even figure of $600,000.

[136] With respect to Laverty specifically, he offers as mitigating factors the matters we have already discussed in relation to sanctions, and he emphasizes his cooperation with Staff throughout the proceeding. He notes that he voluntarily asked for an initial interview with Staff and answered all the questions put to him as best he could.

[137] We also observe that, had Ruttenberg and Burdon participated and co-operated with Staff as Laverty did, the proceeding would likely have been simplified. Staff would not have needed to spend as much time to establish facts. The hearing would have been streamlined. Ruttenberg and Burdon were entitled to choose not to participate in the proceeding, but their lack of co-operation, and the effect of that on the length and complexity of the hearing, should not be held against Laverty.

[138] We conclude that in view of the seriousness of the misconduct, the amounts of investor funds involved, and the substantial success of Staff on the merits, the costs sought by Staff are reasonable, subject to the modest adjustment we have made for the changeovers in counsel and investigators.

[139] We also conclude, for the same reasons that we have drawn distinctions between Ruttenberg, Burdon and Laverty in the imposition of sanctions, and given his cooperation with Staff, that Laverty should bear a lesser amount of the costs.

4.3 Conclusion about costs

[140] Accordingly, we order that Ruttenberg and Burdon, jointly and severally, shall pay costs of $600,000 to the Commission, and of that amount, Laverty shall be jointly and severally liable with Ruttenberg and Burdon to pay $175,000.

5. CONCLUSION

[141] The sanctions we have specified above are proportionate to the misconduct in this case, and are appropriate when viewed globally in the context of each respondent. The combination of sanctions for a particular respondent:

a. ensures that none of them profited, directly or indirectly, from their misconduct;

b. differentiates based on degree of culpability;

c. effects both general and specific deterrence, thereby protecting investors and promoting confidence in the capital markets; and

d. in Laverty's case, reflects the applicable mitigating factors.

[142] For the reasons set out above, we shall issue an order that provides as follows:

a. pursuant to paragraphs 2 and 2.1 of s. 127(1) of the Act:

i. each of the Paramount Entities, Trilogy, Ruttenberg and Burdon is prohibited from trading in any securities or derivatives, and from acquiring any securities, permanently; and

ii. Laverty is prohibited from trading in any securities or derivatives, and from acquiring any securities, for a period of five years;

b. pursuant to paragraph 3 of s. 127(1) of the Act, any exemptions contained in Ontario securities law shall not apply to any of the Paramount Entities, Trilogy, Ruttenberg or Burdon, permanently, and to Laverty for a period of five years;

c. pursuant to paragraphs 7, 8, 8.1 and 8.2 of s. 127(1) of the Act, Ruttenberg, Burdon and Laverty shall resign any positions that they hold as directors or officers of any issuer or registrant, and they are prohibited permanently from becoming or acting as directors or officers of any issuer or registrant,

d. pursuant to paragraph 8.5 of s. 127(1) of the Act, the respondents are prohibited permanently from becoming or acting as a registrant or as a promoter;

e. pursuant to paragraph 9 of s. 127(1) of the Act:

   i. Ruttenberg shall pay to the Commission an administrative penalty of $1,500,000;

   ii. Burdon shall pay to the Commission an administrative penalty of $1,000,000; and

   iii. Laverty shall pay to the Commission an administrative penalty of $500,000;

f. pursuant to paragraph 10 of s. 127(1) of the Act:

   i. Ruttenberg and Burdon shall jointly and severally disgorge to the Commission $43,610,000; and

   ii. Laverty shall, jointly and severally with Ruttenberg and Burdon, disgorge to the Commission $13,000,000, which amount forms part of the $43,610,000 referred in in subparagraph (f)(i) above; and

g. pursuant to s. 127.1 of the Act:

   i. Ruttenberg and Burdon shall jointly and severally pay costs to the Commission in the amount of $600,000; and

   ii. Laverty shall, jointly and severally with Ruttenberg and Burdon, pay costs to the Commission in the amount of $175,000, which forms part of the $600,000 referred to in subparagraph (g)(i) above.

Dated at Toronto this 29th day of May, 2023

"Timothy Moseley"

Timothy Moseley

"Cathy Singer"

Cathy Singer

"Geoffrey D. Creighton"

Geoffrey D. Creighton