



Capital
Markets
Tribunal

Tribunal des
des marchés
financiers

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ONTARIO SECURITIES COMMISSION

– and –

ANDREW DEFRADESCO

Applicant

Respondent

APPLICATION FOR ENFORCEMENT PROCEEDING (Subsections 127(1) and 127(4.0.3) of the *Securities Act*, RSO 1990 c S.5)

A. OVERVIEW

1. The Ontario Securities Commission (the **Commission**) seeks an order in the public interest against Andrew DeFrancesco (**DeFrancesco**) reciprocating an order made by the U.S. District Court of the Southern District of New York (the **District Court**). The District Court's order is based on a complaint (the **Complaint**) filed by the U.S. Securities and Exchange Commission (the **SEC**).
2. The Complaint alleged that DeFrancesco engaged in serious misconduct relating to Cool Holdings, Inc. (**Cool**), including by making materially false and misleading statements in SEC filings and in a promotional campaign as part of a “pump and dump” scheme. In carrying out this scheme, DeFrancesco used a network of private entities – including Ontario corporations – to covertly amass shares and conceal his trading activities in Cool. The false and misleading statements in the promotional campaign caused Cool's share price to increase significantly, following which DeFrancesco sold 1.6 million Cool shares for proceeds of over US\$8 million.
3. In June 2023, DeFrancesco agreed to a District Court order (the **Final Judgment**) imposing several sanctions against him, including a permanent prohibition on acting as a director or

officer of a certain class of issuers, which are akin to reporting issuers in Ontario. DeFrancesco consented to the Final Judgment without admitting or denying the allegations in the Complaint.

4. The Tribunal has jurisdiction to make orders in the public interest under s. 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), including reciprocating foreign orders where the person has agreed with a securities regulatory authority outside Canada to be subject to sanctions, conditions, restrictions or requirements under s. 127(4.0.3) of the Act.
5. It is in the public interest to reciprocate the Final Judgment by permanently prohibiting DeFrancesco from acting as a director or officer of a reporting issuer in Ontario. The requested order is consistent with the Final Judgment and is necessary to prevent potential future misconduct that may harm Ontario's investors and capital markets.

B. GROUNDS

The Complaint

6. In January 2023, the SEC filed a Complaint alleging that DeFrancesco orchestrated a fraudulent scheme to deceive the investing public about Cool by making materially false and misleading statements.
7. The Complaint includes the following allegations:
 - a. In March 2018, DeFrancesco (and others) created Cool through a reverse merger. Following the merger, Cool became a U.S. corporation with its principal place of business in Florida. Its common stock traded on the Nasdaq;
 - b. Cool described itself as a retailer and wholesaler of consumer electronics, which owned stores that sold Apple and Apple-approved products and accessories;
 - c. DeFrancesco was Chairman of the Board of Directors of Cool from March 2018 to December 2018;
 - d. DeFrancesco created a network of entities that he used to conceal his ownership and trading in Cool (the **Nominee Entities**). Although the Nominee Entities were

notionally owned and controlled by family members, DeFrancesco controlled the Nominee Entities and made all their business, investment, and trading decisions;

- e. Four of the Nominee Entities that DeFrancesco used to facilitate his conduct were incorporated in Ontario, Canada;
- f. DeFrancesco used the Nominee Entities to covertly amass substantial holdings in Cool. By September 2018, DeFrancesco's holdings (through the Nominee Entities) represented more than 32% of Cool's outstanding shares. He concealed his ownership of Cool shares by, among other things, failing to make required disclosures to the SEC;
- g. From March to September 2018, Cool made several materially false and misleading statements and omissions in SEC filings, including misleading projections and statements about profitability. The false and misleading statements and omissions were incorporated by reference into Cool's registration statement, which was signed by DeFrancesco;
- h. In September 2018, DeFrancesco orchestrated a fraudulent "pump and dump" scheme, which involved publishing a series of promotional articles that he secretly funded. The articles contained false and misleading statements, including baseless assertions, inflated projections, false data points, false revenue projections, and other misleading statements about Cool's profitability;
- i. As a result of the fraudulent promotional campaign, Cool's share price and trading volume increased significantly. Its closing price nearly quadrupled and its trading volume increased 50-fold;
- j. After the articles were published, DeFrancesco sold approximately 1.6 million shares of Cool for proceeds of over US\$8 million. He sold these shares through the Nominee Entities;
- k. From November 2018 to May 2019, Cool continued to repeat the false and misleading statements and omissions in its SEC filings, including statements

relating to its projected growth and profitability;

1. In June 2022, Cool filed for bankruptcy.

The Final Judgment

8. The Complaint alleged that DeFrancesco violated several sections of the U.S. Securities and Exchange Act (**Exchange Act**) and the U.S. Securities Act of 1933 (**U.S. Securities Act**).
9. In June 2023, the SEC sought approval of a proposed final consent judgment against DeFrancesco. The District Court accepted the proposed consent judgment and ordered sanctions, conditions, restrictions, and requirements as against DeFrancesco. Specifically, the Final Judgment required that DeFrancesco be:
 - a. permanently restrained and enjoined from violating Sections 5 and 17(a) of the Securities Act and Sections 10(b), 13(d) and 16(a) of the Exchange Act and Rules 10b-5, 13d-1(a) and 16a-3 thereunder;
 - b. prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act, pursuant to Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act;
 - c. ordered to pay disgorgement in the amount of US\$1,034,051.52 plus prejudgment interest in the amount of US\$242,018.97; and
 - d. ordered to pay a civil penalty in the amount of US\$1,737,224.52.
10. DeFrancesco voluntarily consented to the Final Judgment without admitting or denying the allegations in the Complaint. As part of his consent, he expressly acknowledged that the Final Judgment may have collateral consequences, including under the rules and regulations of self-regulatory organizations, licensing boards and other regulatory organizations.

Jurisdiction of the Tribunal

11. The Tribunal has jurisdiction to make orders in the public interest under s. 127(1) of the Act, including reciprocating foreign orders where a person or company has agreed with a securities regulatory authority outside Canada to be subject to sanctions, conditions, restrictions or requirements under s. 127(4.0.3). Section 127(4.0.4) expressly allows the Tribunal to make an order under section 127(4.0.3) even if the circumstances predated s. 127(4.0.3).
12. The SEC is a securities regulatory authority outside Canada as defined in the Act. The SEC investigated DeFrancesco and filed a detailed Complaint, which formed the basis of the Final Judgment. DeFrancesco consented to the Final Judgment, which imposed several sanctions, restrictions, and requirements on him. As such, DeFrancesco agreed with the SEC to be subject to sanctions, conditions, restrictions and requirements within the meaning of s. 127(4.0.3).
13. Although a nexus to Ontario is not required, four of the Nominee Entities were Ontario corporations.
14. The Final Judgment includes a prohibition on acting as a director or officer of an issuer that has a class of securities registered under s. 12 of the Exchange Act or that is required to file reports under s. 15(d) of the Exchange Act. These issuers are analogous to reporting issuers under the Act.
15. It is in the public interest to make the requested order. DeFrancesco poses a risk to Ontario investors. The requested order is necessary to protect the public interest and safeguard the integrity of Ontario's capital markets.

C. ORDERS SOUGHT

16. The Commission requests that the Tribunal make the following order:
 - a. DeFrancesco resigns any positions he holds as a director or officer of any reporting issuer, pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

- b. DeFrancesco be prohibited permanently from becoming or acting as a director or officer of any reporting issuer, pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act; and
- c. such other orders as the Tribunal considers appropriate.

DATED this 3rd day of June, 2025

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