



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: *Stinson v Ontario Securities Commission*, 2025 ONCMT 14

Date: 2025-11-03

File No. 2025-13

**BETWEEN:**

**HARRY STINSON, BUFFALO GRAND HOTEL INC., STINSON HOSPITALITY  
MANAGEMENT INC., STINSON HOSPITALITY CORP., RESTORATION FUNDING  
CORPORATION, BUFFALO CENTRAL LLC, and STEPHEN KELLEY**

**(Applicants)**

**- and -**

**ONTARIO SECURITIES COMMISSION**

**(Respondent)**

**REASONS FOR DECISION**

**(Section 144.1 of the *Securities Act*, RSO 1990, c S.5)**

**Adjudicators:** Russell Juriansz (chair of the panel)  
Jane Waechter  
M. Cecilia Williams

**Hearing:** In-person, October 21, 2025

**Appearances:** Kirsten Thoreson For the Ontario Securities Commission  
Richard A. Wellenreiter For Harry Stinson and Buffalo Grand  
Hotel

No one appearing on behalf of Stinson Hospitality Management  
Inc., Stinson Hospitality Corp., Restoration Funding Corporation,  
Buffalo Central LLC, and Stephen Kelley

Simon Parry For himself, as intervenor

Henry Wemekamp For himself, as intervenor

## TABLE OF CONTENTS

|     |                                        |   |
|-----|----------------------------------------|---|
| 1.  | OVERVIEW .....                         | 1 |
| 2.  | BACKGROUND.....                        | 2 |
| 3.  | PRELIMINARY ISSUES .....               | 3 |
| 3.1 | Intervenors .....                      | 3 |
| 4.  | ANALYSIS.....                          | 3 |
| 4.1 | Material Change in Circumstances ..... | 4 |
| 4.2 | The Public Interest .....              | 7 |
| 5.  | CONCLUSION.....                        | 9 |

## REASONS FOR DECISION

### 1. OVERVIEW

[1] Harry Stinson and Buffalo Grand Hotel Inc. (together, the **Applicants**) applied to vary an enforcement order made against them on December 15, 2023.<sup>1</sup> They asked the Tribunal to remove the following financial sanctions (the **Financial Sanctions**) that were ordered jointly and severally against them:

- a. a disgorgement order for approximately \$13.5 million;
- b. a \$600,000 administrative penalty; and
- c. a \$166,000 cost award.

[2] The Applicants presented a financing plan to renovate and refurbish the Buffalo Grand Hotel (the **Hotel**), which has been closed since December 30, 2021, after a fire caused extensive damage. The Applicants submitted that this financing plan is the only way that investors in the Hotel will recover any of their investments and that the Financial Sanctions are the only thing standing in the way of the financing plan. The Applicants presented a draft order that would reinstate the Financial Sanctions if several ongoing conditions were not satisfied relating to the financing.

[3] In its sanctions decision, the Tribunal stated:

We are sympathetic to the idea of investors obtaining redress through the sale of the assets. However, there is insufficient evidence in this case that such an outcome is on the horizon...<sup>2</sup>

[4] We came to the same conclusion about the Applicants' financing proposal. There was insufficient evidence that it was a real option for investor recovery. Moreover, the Applicants failed to meet the statutory requirement to show, on a balance of probabilities, that removing the Financial Sanctions would not be prejudicial to the public interest.

---

<sup>1</sup> *Stinson (Re)*, 2023 ONCMT 50 (**Stinson**)

<sup>2</sup> *Stinson* at para 73

[5] On October 21, 2025, we dismissed the application, with reasons to follow.<sup>3</sup>

## **2. BACKGROUND**

[6] In June 2023, the Tribunal found that the Applicants breached the *Securities Act*<sup>4</sup> by conducting an illegal distribution of securities and by breaching a cease trade order. The Tribunal ordered various sanctions against them on December 15, 2023, including the Financial Sanctions.

[7] By Notice of Application dated August 20, 2025, the Applicants applied to vary the Financial Sanctions on the ground that that the Financial Sanctions prevent the Applicants from getting financing to repair and reopen the Hotel. The Applicants said that this, in turn, prevents investors from recovering their investments in the Hotel.

[8] The Applicants submitted evidence including:

- a. a Term Sheet dated May 23, 2025, from a lender which, if carried through to a binding lending agreement, would result in approximately US\$19 million in funding;
- b. an “as is” appraisal for the Hotel of US\$3 million;
- c. an “as complete” appraisal for the Hotel of US\$31.7 million in 2028 and US\$36.6 million in 2029, based on what it termed the “extraordinary assumption” that US\$27 million will be spent to renovate, remediate and rebrand the Hotel;
- d. a signed Franchise Agreement with a major hotel chain;
- e. a Subordination Agreement between the Applicants and two trustees for the investors; and
- f. an Investor Security Agreement.

[9] The Applicants also submitted evidence intended to demonstrate their impecuniosity.

---

<sup>3</sup> (2025), 48 OSCB 8754

<sup>4</sup> RSO 1990, c S.5 (**Act**)

[10] We permitted a redacted version of the exhibits to Stinson's September 16, 2025, affidavit to be filed and available to the public to protect the identity and personal information of individual investors and sensitive commercial information.

### **3. PRELIMINARY ISSUES**

#### **3.1 Intervenors**

[11] Shortly before the commencement of the hearing, Simon Parry and Henry Wemekamp each applied to intervene in this application. They are trustees representing investors comprising 84 percent of the capital invested. They attended the hearing in person. They did not satisfy the procedural and substantive requirements to intervene and we were skeptical about whether they would make a unique contribution to our understanding of the issues. However, we exercised our discretion to permit Mr. Parry and Mr. Wemekamp to address the Tribunal for five minutes because of the unique nature of this variation request, the perspective they might bring as trustees for the investors, and because the parties consented. They offered some context and stated that approximately 80% of the investors were in favour of the Applicants' plan.

### **4. ANALYSIS**

[12] Subsection 144.1(1) of the *Act* grants the Tribunal authority to vary its orders if satisfied that doing so would not be prejudicial to the public interest.

[13] The Tribunal's authority under s. 144.1 is an extraordinary remedy to be used only in the "rarest of circumstances."<sup>5</sup> The Tribunal has previously exercised its discretion to vary orders when:

- a. new and material facts came to light after the initial order, or there were changes in the material circumstances underlying the order, including where terms of the initial order were duplicative or no longer necessary;<sup>6</sup>

---

<sup>5</sup> *X Inc. (Re)*, 2010 ONSEC 26 at para 35

<sup>6</sup> *Cheng (Re)*, 2019 ONSEC 35; *Macquarie Capital Markets Canada Ltd (Re)*, 2018 ONSEC 12 at paras 11-14; *Friesen (Re)*, (1999) 22 OSCB 2427 (**Friesen**)

- b. the prior order was later found to be manifestly unfair to the respondent;<sup>7</sup> and
- c. the Commission supported and consented to the requested relief.<sup>8</sup>

[14] In addition, the Tribunal has held that relief may be warranted where there has been a misrepresentation, where material facts were not disclosed during the original hearing, where new and previously undiscoverable facts came to light after the original hearing, where legislative changes made it appropriate to revisit the original decision, or where a binding authority was not brought to the attention of the Tribunal.<sup>9</sup>

[15] We focused our analysis on whether there were changes in the material circumstances underlying the Financial Sanctions, including whether the terms of the initial order are no longer necessary. None of the other circumstances that might justify revisiting an order were present in this application.

[16] The Applicants have the onus of proving on a balance of probabilities that the variation sought is justified and not prejudicial to the public interest.<sup>10</sup>

#### **4.1 Material Change in Circumstances**

[17] The Applicants submitted that circumstances have materially changed since the Tribunal imposed the Financial Sanctions in December 2023. The purported material change is that they now have a viable plan that would permit investors to recover their investments if the Financial Sanctions were removed.

[18] We were not persuaded. The evidence the Applicants filed was incomplete and largely speculative. They failed to provide sufficient specific and definitive information to meet their onus of proof. Their evidence indicated that a great deal of uncertainty remains. In particular:

- a. The Term Sheet from the lender expired on May 23, 2025, and the Applicants did not provide a signed extension from the lender. Email evidence from the financial broker in March 2025, which could pertain to

---

<sup>7</sup> *AiT Advanced Information Technologies Corporation (Re)*, 2008 ONSEC 23

<sup>8</sup> *Katanga Mining Limited (Re)*, 2021 ONSEC 11 at paras 5-9

<sup>9</sup> *Pro-Financial Asset Management Inc (Re)*, 2017 ONSEC 39 at para 16

<sup>10</sup> *Rankin (Re)*, 2011 ONSEC 32 at para 84, *aff'd* 2023 ONSC 112 (Div Ct)

the same lender, said that “We do not have long to clear this issue as our current lender has us on a time frame in order to solve this with the OSC before our terms become void...”<sup>11</sup> This created uncertainty about whether the Term Sheet, which is not a binding loan commitment, will evolve into one.

- b. The Term Sheet states: “There is currently an open matter with the Ontario Securities Commission which will be fully resolved prior to closing.”<sup>12</sup> The Applicants submitted that this refers to this variation application, although this application was not an open matter when the Term Sheet was completed. We also did not know what “fully resolved” meant. This created uncertainty about the lender’s requirements.

- c. The financial broker wrote to the Applicants in March 2025 that:

It is imperative that we clear any clouds pertaining to the Ontario Securities Commission and any judgements against the Buffalo Grand Hotel and yourself for a lender to close on a loan to fund the re-opening of the hotel and convention center.<sup>13</sup>

There are US\$3.5 million in liens and judgments registered against the Hotel. The Applicants said these amounts would be paid from the proceeds of the US\$19 million loan (which was originally proposed to be a US\$22 million in Term Sheet but was revised to US\$19 million after a property appraisal was obtained). The documentation, however, did not clarify whether the lender would require the other judgments to be satisfied before advancing the loan. The March 2025 email from the broker suggested that prepayment may be required. This created further uncertainty about the lender’s requirements and whether they can be satisfied by the Applicants.

- d. The Term Sheet contemplated personal guarantees from Stinson and any investors holding more than a 10 percent interest in the Hotel. No

---

<sup>11</sup> Exhibit 4, Email from Luke Thompson to Harry Stinson, dated March 23, 2025, Exhibit I to the Affidavit of Harry Stinson, sworn on October 7, 2025 (**Thompson Email March 23, 2025**)

<sup>12</sup> Exhibit 3, Lender Term Sheet, dated May 23, 2025 at p 3, Exhibit N to the Affidavit of Harry Stinson, sworn on September 16, 2025

<sup>13</sup> Exhibit 4, Thompson Email March 23, 2025

investors hold more than 10 percent and, therefore, the only guarantor would be Stinson. In our view, a guarantee from Stinson would not be valuable to a lender, since the evidence filed showed that he is impecunious. This created uncertainty about whether the lender will proceed to a binding commitment when there are no guarantors.

- e. The “as complete” appraisal for the Hotel relied on representations from management including the “extraordinary assumption” that US\$27 million will be spent to remediate, renovate, rebrand and reposition the Hotel. The appraiser explained that if this assumption proves false, it would directly impact their value conclusions. We had no basis to regard the appraiser’s “extraordinary assumption” to be reasonable. We note there was no evidence to show how the additional US\$11.5 million contemplated by the appraisal would be raised (over and above the US\$19 million covered by the Term Sheet and the US\$3.5 million in judgments to be paid from the financing rather than spent on renovation).
- f. The signed Franchise Agreement for the Hotel provided that renovations must begin no later than 30 days after the effective date of June 30, 2025. There was no evidence that renovations had begun; on the contrary, the Applicants’ whole point was that the renovations could not begin until the Financial Sanctions are removed and the financing completed. This created uncertainty about whether the franchisor would be bound by the Franchise Agreement.
- g. The City of Buffalo placed a certificate of abandonment on the property on June 19, 2025, and has threatened proceedings against the Hotel to seize it. There was no evidence that the City of Buffalo gave any assurance that it will change its position if the Financial Sanctions are removed. This created uncertainty as to whether the Hotel will be available to renovate and refurbish.

[19] There was also some evidence that weighs against the Financial Sanctions being an impediment to financing:



- a. the Applicants said that the Franchise Agreement was contingent on the Financial Sanctions being lifted but we did not see that in any document or from the Franchisor; and
- b. the OSC has not registered the order containing the Financial Sanctions against the Hotel and, as such, it is not a registered lien that directly impedes financing of the Hotel.

[20] In addition, there was no evidence about:

- a. whether any further steps contemplated by the Term Sheet have been taken, other than payment of a due diligence deposit of \$100,000; and
- b. the substance of any communications between the Applicants and the proposed lender after July 7, 2025.

[21] The Applicants submitted that the Financial Sanctions are the primary remaining obstacle to developing the Hotel. We saw many more obstacles than the Financial Sanctions, as described above. Furthermore, the evidence did not suggest to us that the Financial Sanctions are no longer necessary. As such, we found that the Applicants have not demonstrated that a material change in circumstances has occurred to support varying the Financial Sanctions.

#### **4.2 The Public Interest**

[22] The Commission identified three precedent cases where an applicant sought to vary sanctions orders after contested sanctions and costs hearings, *Freisen (Re)*,<sup>14</sup> *Bergen (Re)*<sup>15</sup> and *Spaetgens (Re)*,<sup>16</sup> and submitted that a common thread in these authorities is the requirement for substantial and satisfactory evidence, with adequate, specific and verifiable supporting information. For the purpose of our analysis, we focused on *Spaetgens*. *Freisen* and *Bergen* were less applicable to this case because they involved the need for current, corroborating evidence of character for individuals asking to be reinstated in a regulated industry.

---

<sup>14</sup> *Friesen (Re)* (1999), 22 OSCB 2427

<sup>15</sup> 2021 CanLII 142789 (SK FCAA)

<sup>16</sup> 2017 ABASC 163

- [23] In *Spaetgens (Re)*,<sup>17</sup> the Alberta Securities Commission refused to grant the requested order because the variation application was speculative, premature and unsupported by sufficient detail to permit any assessment of whether it would be prejudicial to the public interest to grant relief.
- [24] Like in *Spaetgens*, the evidence filed by the Applicants was speculative, premature and unsupported by sufficient detail to permit an assessment of the public interest. We explained above that there are too many uncertainties, and we found that the evidence fell well short of “substantial and satisfactory.”
- [25] We would expect to, but did not, see evidence on the following topics relevant to the public interest:
- a. whether the Applicants made any effort to pay the Financial Sanctions;
  - b. what was done with the funds initially raised from investors; and
  - c. whether other potentially viable options have been pursued, as the Commission referred to a few potentially viable options, including obtaining a forbearance agreement from the Commission on terms acceptable to the Commission, or obtaining a receivership order.
- [26] In summary, other than a weakly supported assertion that their financing plan was the only viable option available to investors, the Applicants did not provide essential evidence to support a conclusion that removing the Financial Sanctions would not be prejudicial to the public interest.
- [27] In addition, we were mindful of two of the important factors that assist the Tribunal in determining the appropriate sanctions in any case: specific and general deterrence. The order Stinson seeks to vary stems from the second instance where he has breached Ontario securities law. In the sanctions and costs decision in this matter, the Tribunal commented on Stinson’s “failure to appreciate the importance of complying with Ontario securities law, especially in light of Stinson’s previous settlement in 2006” with the Commission.<sup>18</sup> Exercising our discretion to grant the requested variation on the basis of such incomplete

---

<sup>17</sup> 2017 ABASC 163

<sup>18</sup> *Stinson* at para 48

and speculative evidence would, in our view, undermine the specific deterrence intended by the Tribunal's sanctions order.

- [28] We were also concerned that to grant the variation in this instance would send a message to like-minded individuals that financial sanctions from the Tribunal may be avoided on speculative, premature or unsupported evidence, thereby undermining the general deterrent effect of Tribunal sanctions decisions.
- [29] While we understood and were sympathetic to the plight of the investors, we made two observations.
- [30] First, the Tribunal's sanctions are protective and preventative, not compensatory. They have the purpose of protecting all investors by maintaining public confidence in the capital markets. The Tribunal has no jurisdiction to redress harm caused to private investors by making orders for restitution. The Tribunal's order of disgorgement is not the same as damages and is not intended to compensate individual investors.<sup>19</sup>
- [31] Second, we did not accept the investors had no alternative but to rely on the Applicants to manage the refinancing, renovating and reopening the Hotel to attempt to recoup their investments as there was no evidence of any other options having been explored, as suggested by the Commission.

## **5. CONCLUSION**

- [32] For the above reasons, we found that the Applicants had not met their burden of demonstrating, on a balance of probabilities, that removing the Financial Sanctions was justified and would not be prejudicial to the public interest and we dismissed their application.

Dated at Toronto this 3<sup>rd</sup> day of November, 2025.

*"Russell Juriansz"*

---

Russell Juriansz

---

<sup>19</sup> *Cartaway Resources Corp (Re)*, 2004 SCC 26 at paras 58-62, citing *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 41-45

*"Jane Waechter"*

---

Jane Waechter

*"M. Cecilia Williams"*

---

M. Cecilia Williams