

**BETWEEN:**

**ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**-and-**

**SANJIV KATYAL**

**(Respondent)**

**APPLICATION FOR ENFORCEMENT PROCEEDING**

(Subsections 127(1) and 127(4.0.1) of the *Securities Act*, RSO 1990, c S.5)

**A. OVERVIEW**

1. The Applicant, the Ontario Securities Commission (the **Commission**), requests that the Capital Markets Tribunal (the **Tribunal**) make an order in the public interest against the Respondent, Sanjiv Katyal (**Katyal**), based on a conviction by the Ontario Court of Justice (**OCJ**), without providing the Respondent an opportunity to be heard.
2. In 2023, Katyal pleaded guilty to and was convicted of one count of contravening Ontario securities law under s. 122(1)(c) of the Ontario *Securities Act*, RSO 1990, c S.5 (the **Act**) by engaging in unregistered advising contrary to s. 25(3) of the Act. Katyal's conviction was based on admissions that, while employed at National Bank and CIBC, he advised three clients to invest with an individual named Mujahid Ali Syed without being registered as an adviser under the Act.
3. The sentence imposed by the OCJ against Katyal included a probation order, a \$5,000 fine, and restitution orders totalling \$70,000. As part of his sentence, Katyal also consented to an administrative order to be imposed by the Tribunal that included permanent trading, director and officer, and other market participation bans.

4. The Tribunal has jurisdiction to make orders in the public interest on an *ex parte* basis under ss. 127(1) and 127(4.0.1) of the Act where a person or company has been convicted in any jurisdiction of an offence under laws respecting securities or derivatives.

5. The order requested herein is in the public interest. The Respondent has consented to an order on terms substantially similar to those sought. The order is necessary to restrain potential future misconduct by the Respondent that exposes Ontario investors to unacceptable risks and to deter others from engaging in securities misconduct such as unregistered advising.

## **B. GROUNDS**

### **OCJ Proceeding and Sentence**

6. In an information sworn on November 25, 2022, Katyal was charged with three counts under s. 122(1)(c) of the Act:

- (a) engaging in an act, practice, or course of conduct related to securities that he knew or ought to have known perpetrated a fraud on Ontario investors contrary to s. 126.1(1)(b) of the Act;
- (b) engaging in or holding himself out as engaging in the business of trading in securities without being registered to trade in securities as required by s. 25(1) of the Act; and,
- (c) engaging in or holding himself out as engaging in the business of advising anyone with respect to investing in, buying, or selling securities, without being registered as an adviser as required by s. 25(3) of the Act.

7. On March 21, 2023, Katyal pleaded guilty before the Honourable Justice E. Rondinelli to the third count of engaging in, or holding himself out as engaging in, the business of advising anyone with respect to investing in, buying, or selling securities, without being registered in accordance with Ontario securities law as an advisor, as required by s. 25(3) of the Act, and therefore committing an offence contrary to s. 122(1)(c) of the Act.

8. Katyal was convicted of the offence based on admissions contained in a Statement of Agreed Facts in Support of Guilty Plea (**ASF**), which was entered into the court record.

9. On September 28, 2023, Katyal was sentenced to two years of probation and was ordered to pay a fine of \$5,000 and restitution totalling \$70,000.

10. Katyal also consented to an administrative order to be imposed by the Tribunal. In brief, Katyal consented to a permanent trading ban subject to a limited carve-out for personal trading for the first five years, followed by a broader carve-out for personal trading thereafter. Katyal has also consented to permanent director and officer bans, subject to a carve-out permitting him to act as a director or officer of an issuer whose securities are solely owned by him or his immediate family members. Katyal understands that this consent will be presented to the Capital Markets Tribunal as a joint recommendation and that the wording of the final order will be determined and imposed by the Tribunal.

### **Admitted Misconduct**

11. The Commission relies on the following admissions in the ASF:

- (a) Between in or around June 1, 2015 and January 31, 2018 (the **Material Time**), Katyal was employed by National Bank, and then as a General Manager at CIBC. He was registered as a dealing representative under the Mutual Funds Dealer category.
- (b) Katyal was not registered to act as a dealer in respect of a security other than those included under the Mutual Fund Dealer category, nor was he registered to act as an adviser in respect of any security.
- (c) In April 2015, Katyal began investing on his daughter's behalf with Mujahid Ali Syed (**Syed**). He invested \$160,000.00 in total before the end of 2017 and had received payments in accordance with his investment agreement with Syed of approximately at least \$200,000.00;

(d) During the Material Time, while employed at CIBC and/or National Bank, and without being registered as an adviser, Katyal advised three clients to invest with Syed:

- (i) One individual invested \$50,000 total;
- (ii) One individual invested \$50,000 total; and
- (iii) One individual invested \$1,330,000 total.

(e) The Commission's forensic accounting analysis showed that none of the \$1,430,000 in funds from the three investors were invested into trading accounts held by Syed. These funds were deposited into accounts held by Syed or his companies (Global Marketing & Information Systems Inc. or Comfortnstyle Textile Inc.), and co-mingled. The funds were used to repay other investors, including Katyal, and for personal use.

### **Jurisdiction of the Tribunal**

12. The investments in relation to which Katyal provided advice are securities under the Act.

13. Pursuant to paragraph 2 of s. 127(4.0.1) of the Act, if a person or company has been convicted in any jurisdiction of an offence under laws respecting securities and derivatives, the Tribunal may make any of the orders described in paragraphs 1 to 8.5 of s. 127(1) of the Act against the Respondent without giving the Respondent an opportunity to be heard.

14. Katyal has been convicted by the OCJ of an offence under Ontario securities laws.

15. Subsection 127(4.0.4) allows the Tribunal to make an order under s. 127(4.0.1) even if the circumstances arose before s. 127(4.0.1) came into force.

16. It is in the public interest to make the requested orders against the Respondent to protect investors and safeguard the integrity of Ontario's capital markets.

### C. ORDER SOUGHT

17. The Commission requests that the Tribunal make the following orders against Katyal:

- (a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Katyal shall cease permanently, except that: (i) for the first two years years and six months from the date of this order, this order does not preclude Katyal from trading in securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, and/or tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, provided that he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse or child's name only; and (ii) following that 2.5 year period, this order does not preclude Katyal from trading in securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, and/or trading in securities or derivatives on his own behalf provided that he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse or child's name only;
- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities or derivatives by Katyal shall be prohibited permanently, except that: (i) for the first two years and six months from the date of this order, this order does not preclude Katyal from purchasing securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, and/or tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, provided that he carries out any permitted acquisitions through a

registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse or child's name only; and (ii) following that 2.5 year period, this order does not preclude Katyal from purchasing securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, and/or purchasing securities or derivatives on his own behalf provided that he carries out any permitted acquisitions through a registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse or child's name only;

- (c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law permanently not apply to Katyal;
- (d) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Katyal resign any positions that he holds as a director or officer of any issuer or registrant, except that he may continue to act as a director or officer of an issuer whose securities are solely owned by him or his immediate family members;
- (e) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Katyal be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant, except that he may act as a director or officer of an issuer whose securities are solely owned by him or his immediate family members; and
- (f) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Katyal be prohibited permanently from becoming or acting as a registrant or promoter; and
- (g) such other orders as the Tribunal considers appropriate.

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**ONTARIO SECURITIES COMMISSION**  
20 Queen Street West, 22nd Floor  
Toronto, ON  
M5H 3S8

**Emma Seip**  
Litigation Counsel  
Enforcement Division  
LSO # 93517M

Tel: (416) 597-7239  
Email: [eseip@osc.ca](mailto:eseip@osc.ca)