

BETWEEN:

ONTARIO SECURITIES COMMISSION
(Applicant)

-and-

NATHANAEL ANTHONY AIKMAN
(Respondent)

APPLICATION FOR ENFORCEMENT PROCEEDING

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

I. 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, Nathanael Anthony Aikman (**Aikman**), based on a conviction by the Ontario Court of Justice (**OCJ**). The Commission seeks this order without providing the Respondent an opportunity to be heard, pursuant to paragraph 2 of subsection 127(4.0.1) of the Ontario *Securities Act*, RSO 1990, c S.5 (the **Act**).
2. In 2023, Aikman pleaded guilty to and was convicted of two counts of contravening Ontario securities laws under s. 122(1)(c) of the Act: one count of engaging in the business of trading without being registered to trade in securities, contrary to s. 25(1) of the Act, and one count of fraud, contrary to s. 126.1(1)(b) of the Act. Aikman's conviction was based on admissions that between October 27, 2016 and August 30, 2019, he solicited approximately \$6.3 million worth of investments in a hedge fund, falsified his trading performance and returns, paid investors inflated dividends and redemptions that were significantly funded by the investments of others, and ultimately lost and misappropriated approximately \$3.9 million in investor funds.
3. Aikman was sentenced *in absentia* to four years in custody for the fraud

conviction, and three months concurrent for the unregistered trading conviction. A restitution order totalling \$3,902,176.65 was also imposed against Aikman.

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, as here, 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 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 the operation of a Ponzi-like scheme.

II. **FOUNDATIONS**

A. **OCJ Proceeding and Sentence**

6. Pursuant to an information sworn December 9, 2020, Aikman was charged with three counts of contravening Ontario securities law under s. 122(1)(c) of the Act:

- (a) 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 (**Count 1**);
- (b) trading in securities, where such trading was a distribution of securities, without having filed a preliminary prospectus and prospectus and obtaining receipts for them from the Director, as required by s. 53(1) of the Act (**Count 2**); and
- (c) engaging in an act, practice or course of conduct related to securities that he knew or reasonably ought to have known perpetrated a fraud on Ontario investors, contrary to s. 126.1(1)(b) of the Act (**Count 3**).

7. On November 23, 2023, Aikman pleaded guilty to Count 1 and Count 3 before the Honourable Justice L. Botham and was convicted based on admissions contained in a Synopsis for Guilty Plea (the **Admissions**), which was entered into the court record. Count 2 was withdrawn.

8. On July 18, 2024, Aikman was sentenced *in absentia* to four years in custody for Count 3, and three months concurrent for Count 1. A restitution order totalling \$3,902,176.65 was also imposed against Aikman.

B. Admitted Conduct

9. The Commission relies on the following Admissions:

- (a) Aikman was one of three partners in Yonge Street Capital LLC (**YSC**), which was promoted as a hedge fund and raised approximately \$6.3 million from over 70 Canadian residents between October 27, 2016 and August 30, 2019.
- (b) Of the \$6.3 million raised, \$2.4 million in dividends were paid to investors, and the remaining \$3.9 million were lost or misappropriated. In particular, Aikman spent \$1.4 million on personal expenses.
- (c) Aikman was never registered with the Commission, and neither were YSC, its two other partners, nor any of the other companies involved in the matter. None of the parties filed a prospectus in relation to the distribution of shares.
- (d) Aikman nevertheless held himself out as a trader and conducted trades.
- (e) A small percentage of funds raised from investors were used to trade in equities, but trading appears to have ceased as of April 2018.
- (f) Aikman also conducted a few trades on Coinsquare in June 2018, generating a small profit. However, after June 2018, Aikman purchased cryptocurrency and transferred it to two unknown wallets. The wallets now have a balance of zero. No explanation has been provided for the nil balances.
- (g) Aikman fabricated the returns generated from his trading activity and paid inflated dividends to investors. Investors were also given false, overstated representations of their holdings, causing some investors to contribute

additional funds and others to not redeem their investments.

- (h) When investors did redeem their investments, redemptions were significantly funded by the investments of others.
- (i) Since May 2019, investors have not received any funds back from YSC.
- (j) In early August 2019, YSC announced a structural change that reportedly resulted in the liquidation of the 72 client accounts totalling over \$10 million. Investors were told they would receive full balances in their accounts.
- (k) On August 22, 2019, Aikman admitted to his partners that there was no money left to be returned to investors.

C. Jurisdiction of the Tribunal

- 10. 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 or 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.
- 11. Aikman has been convicted by the OCJ of offences under Ontario securities laws.
- 12. Aikman failed to appear at his sentencing hearing.
- 13. Subsection 127(4.0.4) of the Act 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.
- 14. 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.

III. ORDER SOUGHT

- 15. The Commission requests that the Tribunal make the following orders against Aikman:
 - (a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Aikman cease permanently;

- (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by Aikman be prohibited permanently;
- (c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Aikman permanently;
- (d) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Aikman resign any positions that he holds as a director or officer of any issuer or registrant;
- (e) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Aikman be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant;
- (f) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Aikman be prohibited permanently from becoming or acting as a registrant or promoter;
and
- (g) such other order or orders as the Tribunal considers appropriate.

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ONTARIO SECURITIES COMMISSION

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