

**BETWEEN:**

**ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**-and-**

**BRADLEY J. MOYNES**

**(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 requests an order in the public interest against Bradley J. Moynes, whom the SEC alleged is a Canadian citizen and a resident of British Columbia, based on a judgment of the District Court for the District of Massachusetts in the United States. The Commission requests that the Tribunal make the requested order without giving Moynes an opportunity to be heard, pursuant to subsection 127(4.0.3) of the *Securities Act*.

2. The District Court's judgment is based on the US Securities and Exchange Commission (the **SEC**)'s Complaint filed in June 2022 in the District Court (the **Complaint**). The Complaint alleged that Moynes and Digatrade Financial Corp. violated US federal securities law, and that Vancap Ventures Inc. acted as a repository for ill-gotten gains. The Complaint sets out that Moynes engaged in a fraudulent course of conduct described as a "pump and dump" scheme involving the publicly traded stocks (shares) of Digatrade and Formcap Corp.

3. According to the Complaint, investors could trade in Formcap and Digatrade stocks in over-the-counter markets based in the United States. Moynes allegedly conspired with others to conceal sales of Formcap and Digatrade stock that he, directly or indirectly, beneficially owned or controlled, and to promote trading in Digatrade stock and to manipulate Digatrade's stock price and trading volume. The fraudulent scheme generated over US \$6 million at the expense of unsuspecting investors. Moynes and Digatrade received over US \$1.5 million in illicit trading profits. Moynes transferred or caused the transfer of the bulk of his illicit trading profits (approximately US \$1 million) to Vancap.

4. On March 8, 2023, Moynes and his corporate co-defendants consented to District Court judgments imposing sanctions on them. Those circumstances are sufficient to engage the Tribunal's public interest jurisdiction. The Tribunal may issue preventive and protective orders to protect investors, the fairness, efficiency and competitiveness of capital markets, and public confidence in capital markets.

5. Under subsection 127(4.0.3) of the *Securities Act*, the Tribunal has jurisdiction to make any of the public interest orders described in paragraphs 1 to 8.5 of subsection 127(1), where a person or company has agreed with a securities regulatory authority outside Canada to be subject to sanctions.

6. The protective and preventive order requested is necessary and in the public interest to restrain Moynes from engaging in potential future conduct that could prejudice Ontario investors and the capital markets.

## **B. GROUNDS**

### **The Complaint**

7. The Complaint includes the following allegations:

- (a) Moynes' Formcap fraud:
- (i) Frederick L. Sharp and his employees (the **Sharp Group**), were from at least 2010 to 2019 in the business of facilitating illegal stock sales in the public securities markets;
  - (ii) In May 2013 the Sharp Group controlled 95% of Formcap's purportedly unrestricted shares;
  - (iii) In March 2014, Moynes became a Sharp Group client, and from June 2014 through June 2015, Moynes was the President and a director of Formcap;
  - (iv) After becoming a Sharp Group client, Moynes controlled approximately 19.5% of Formcap's total shares outstanding;
  - (v) From March 2014 through July 2014, Moynes directed the sale of approximately 9.9 million Formcap shares held by the Sharp Group's nominee companies;
  - (vi) While he was selling Formcap shares, Moynes issued press releases touting Formcap's business prospects, none of which disclosed that Moynes was selling, and would continue to sell, his shares of Formcap;
  - (vii) Between March 2014 and November 2014, Moynes dumped millions of Formcap shares via Sharp Group nominee companies into the market, generating trading proceeds of US \$327,745, of which Moynes directly benefitted in the amount of approximately US \$256,000;
- (b) Moynes' Digatrade fraud:

- (i) Moynes was, since December 2000, the President and a director of Digatrade, and also was Digatrade's Chief Executive Officer and Chief Financial Officer since 2016 and Chairman since 2017;
- (ii) As of April 2014, Digatrade had approximately 52,417,000 outstanding shares, 95.8% of which Moynes personally controlled;
- (iii) In May 2014, Moynes caused Digatrade to issue 28 million purportedly free-trading shares, which, according to public filings, were to settle old debts held by unrelated third parties;
- (iv) In reality, six of the supposed unrelated third parties were Sharp Group nominee companies and Moynes secretly retained ownership and control of 21 million of the 28 million shares through those six nominee companies;
- (v) Prior to selling his Digatrade shares, Moynes directed a Sharp Group trader to buy Digatrade stock on numerous occasions to support and inflate the price of the stock;
- (vi) Moynes paid various stock promoters through the Sharp Group, thereby concealing his role in each of those promotions, to increase demand for Digatrade stock;
- (vii) By mid-2016, the scheme entered its second phase in which Moynes, the Sharp Group employees, Luis Jimenez Carrillo, a recidivist penny stock schemer, and Carrillo's associates (collectively, the **Digatrade Control Group**) coordinated efforts to promote and direct trading in Digatrade stock;

- (viii) In August 2016, Moynes caused Digatrade to issue 25,250,000 restricted shares, with 25 million of those shares going to Moynes;
- (ix) On the same day, Moynes caused Digatrade to issue 8 million purportedly unrestricted shares in exchange for convertible debt;
- (x) Over the next three months, Moynes transferred all but 50,000 of the 8 million newly-issued shares to Sharp Group nominee companies to be secretly held for the Digatrade Control Group;
- (xi) By the end of 2016, the Digatrade Control Group controlled approximately 97% of all Digatrade shares deposited with brokers;
- (xii) Starting November 1, 2016, Carrillo orchestrated a promotional campaign to promote Digatrade stock to investors by paying the operators of a “boiler room” operation based in Medellin, Colombia;
- (xiii) At or about the same time as the promotional campaign, the Digatrade Control Group directed the sales of Digatrade stock;
- (xiv) Before and during the time that Carrillo was promoting Digatrade stock, Moynes issued Digatrade press releases publicizing new business ventures;
- (xv) The Digatrade Control Group’s promotional campaign caused Digatrade’s stock price to rise in November 2016, despite the Digatrade Control Group’s heavy selling;
- (xvi) In December 2016, the Financial Industry Regulatory Authority (**FINRA**), which oversees broker-dealers in the United States, questioned Moynes

about the dramatic increase in Digatrade's stock price and trading volume and the contemporaneous press releases that he released as President of Digatrade;

- (xvii) Moynes falsely told FINRA that he did not trade Digatrade stock and that he did not know anyone who was trading Digatrade stock;
- (xviii) In January 2017, Moynes caused Digatrade to issue another 8 million purportedly free-trading shares to five Sharp Group nominee companies in exchange for purported debt and the Digatrade Control Group directed the sale of all of the shares to generate substantial profits;
- (xix) This pattern was repeated several times through 2018;
- (xx) Moynes was actively involved in generating the purportedly free-trading shares, including by signing board resolutions authorizing each of the debt conversions as a member of Digatrade's board of directors; signing debt settlement agreements as an authorized signatory on behalf of Digatrade; and signing at least one letter on behalf of Digatrade, in which Moynes falsely affirmed that a Sharp Group nominee company was "not an affiliate of [Digatrade]", which was necessary to obtain a legal opinion to have the shares issued without restricted legends;
- (xxi) Moynes also signed and certified numerous SEC filings that contained misstatements about his ownership of Digatrade shares, including, for example, a December 31, 2014 Form 20-F discussing the company's May 2014 issuance of 28 million shares which falsely stated that the shares were

issued to “arm’s length parties who acquired the debts from creditors of the Company”;

(xxii) From May 2015 to February 2018, Moynes (and later as part of the Digatrade Control Group) dumped millions of shares of Digatrade into the market generating approximately US \$5.9 million in net proceeds, of which Moynes and Digatrade received approximately US \$1.28 million in net illicit trading profits; and

(xxiii) Moynes directed US \$980,400 in illicit trading profits to his BC corporation, Vancap, which he solely owned.

### **The District Court’s Final Judgment**

8. Moynes consented to a Final Judgment in the District Court, without admitting or denying the allegations in the Complaint (except as to jurisdiction and for the purposes of exceptions to discharge under US federal bankruptcy law); waived findings of fact and conclusions of law; and waived any right to appeal.

9. On March 8, 2023, the District Court imposed the following sanctions on Moynes:

- (a) Moynes is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the US *Securities Exchange Act of 1934* (the **1934 Act**) and Rule 10b-5 promulgated thereunder, and Sections 5 and 17(a) of the US *Securities Act of 1933* (the **1933 Act**);
- (b) Moynes is permanently barred from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of

issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock;

- (c) pursuant to Section 21(d)(5) of the 1934 Act, Moynes is permanently restrained and enjoined from directly or indirectly, participating in the issuance, purchase, offer, or sale of any security; however, the injunction does not prevent him from purchasing or selling securities listed on a national securities exchange for his own personal account;
- (d) pursuant to Section 21(d)(2) of the 1934 Act and/or Section 20(e) of the 1933 Act, Moynes is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the 1934 Act or that is required to file reports pursuant to Section 15(d) of the 1934 Act; and
- (e) disgorgement of US \$1,296,275, including prejudgment interest (US \$980,400 of which Moynes is jointly and severally liable with Vancap and \$62,007 of which Moynes is jointly and severally liable with Digatrade); and
- (f) a civil penalty of US \$207,183.

### **C. BASES FOR THE ORDER SOUGHT**

10. Under subsection 127(4.0.3) of the *Securities Act*, where a person or company has agreed with a securities regulatory authority outside Canada to be subject to sanctions, the Tribunal has jurisdiction to make orders in the public interest under subsection 127(1) of the *Securities Act*, without providing the person or company who is subject to the sanctions an opportunity to be heard. The SEC is a securities regulatory authority outside Canada as defined in the *Securities Act*. Moynes agreed with the SEC to be subject to sanctions.

11. Subsection 127(4.0.4) of the *Securities Act* expressly allows the Tribunal to make an order under subsection 127(4.0.3) even if, as here, Moynes' agreement with the SEC to be subject to sanctions occurred before the day subsection 127(4.0.3) came into force.

12. A nexus to Ontario is not required for the Tribunal to exercise its jurisdiction under subsection 127(4.0.3). However, the conduct alleged in the Complaint, if connected to Ontario, would have constituted numerous breaches of Ontario securities law.

13. It is in the public interest to make the requested order. Moynes 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.

#### **D. ORDER SOUGHT**

14. The Commission requests that the Tribunal make the following order:

- (a) pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the *Securities Act*:
  - (i) Moynes is permanently prohibited from trading in any securities or derivatives, and is permanently prohibited from acquiring any securities, except in accordance with this order;
  - (ii) Moynes may trade in securities or derivatives, and may acquire securities, in any registered retirement savings plan, registered education savings plan, registered retirement income fund, or tax-free savings account (within the meaning of the *Income Tax Act* (Canada)), of which Moynes is the sole legal and beneficial owner, through a registered dealer, to whom he has given a copy of this order;

- (b) pursuant to paragraph 7 of subsection 127(1) of the *Securities Act*, Moynes shall resign any positions that he holds as a director or officer of any reporting issuer;
- (c) pursuant to paragraph 8 of subsection 127(1) of the *Securities Act*, Moynes is prohibited permanently from becoming or acting as a director or officer of any reporting issuer; and
- (d) such other order or orders as the Tribunal considers appropriate.

March 31, 2026

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