

## Chapter 3

# Reasons: Decisions, Orders and Rulings

### 3.1 Reasons for Decision

#### 3.1.1 Teodosio Vincent Pangia et al.

**IN THE MATTER OF  
THE SECURITIES ACT  
R.S.O. 1990, c. S.5, AS AMENDED**

**AND**

**IN THE MATTER OF  
TEODOSIO VINCENT PANGIA,  
AGOSTINO CAPISTA, AND  
DALLAS/NORTH GROUP INC.**

**REASONS FOR DECISION OF THE ONTARIO  
SECURITIES COMMISSION**

**HEARING:** Tuesday, December 16, 2003

**PANEL:** Paul M. Moore, Q.C. - Vice-Chair  
Wendell S. Wigle, Q.C. - Commissioner  
Paul K. Bates - Commissioner

**COUNSEL:** Yvonne Chisholm - On behalf of Staff  
Brian Clarkin of the Ontario  
Joanne Ramirez Securities  
Commission

Linda Fuerst - On behalf of  
Teodosio Vincent  
Pangia, Agostino  
Capista, and  
Dallas/North  
Group Inc.

The following statement has been prepared for purposes of publication in the Ontario Securities Commission Bulletin and is based on the settlement agreement and the transcript of the hearing, including oral reasons delivered at the hearing, in the matter of Teodosio Vincent Pangia, Agostino Capista, and Dallas/North Group Inc. The transcript has been edited, supplemented and approved by the chair of the panel for the purpose of providing a public record of the panel's decision in the matter. This extract should be read together with the settlement agreement and the order signed by the panel.

The purpose of the hearing was to consider a settlement agreement between staff of the Commission and the respondents, Teodosio Vincent Pangia, Agostino Capista, and Dallas/North Group Inc., in a matter pursuant to sections 127 and 127.1 of the *Securities Act* (the Act). The hearing was conducted in camera until the oral decision and reasons were delivered by Vice-Chair Moore.

### From the Settlement Agreement:

[1] Pangia was, at all material times, the President and a director of Dallas North and President, Chairman and Chief Executive Officer of EPA. Pangia had been registered with the Commission in 1988 and 1989 as a salesperson restricted to the sale of mutual funds, but was not registered during 1995 and 1996.

[2] Capista was the incorporator and first director of Dallas North. Until October 1995, Capista was the Secretary, Treasurer and a director of Dallas North and exercised control over it. Capista has never been registered with the Commission.

[3] At the material time, Pangia exercised control over Dallas North, a private company incorporated in Ontario on May 14, 1991. In the period March, 1995 to October, 1995, Dallas North received funds from the sale of EPA shares.

[4] Envirovision International Inc. was incorporated in Ontario on June 7, 1995 to facilitate the sale of shares of EPA. Between June, 1995 and February, 1996, Envirovision received funds from the sale of EPA shares. In turn, Envirovision disbursed funds to Pangia.

[5] EPA was originally incorporated in British Columbia on January 9, 1987, as 319980 B.C. Ltd. EPA was a reporting issuer in British Columbia and its shares had traded on the Vancouver Stock Exchange. During the period March, 1995 to February, 1996, trading of EPA shares on the VSE was halted or suspended. In addition, during the period July 26, 1995 to August 18, 1995, all trading in EPA shares was cease traded by the British Columbia Securities Commission.

[6] During the period March, 1995 to February, 1996, Pangia, Capista and/or Dallas North participated in the sale of shares of EPA to members of the public in approximately 113 transactions for proceeds of approximately \$1.4 million. These funds were paid to Dallas North and Envirovision. Pangia and/or Dallas North owned or controlled the shares of EPA that were sold in these transactions. Capista exercised control over Dallas North in his capacity as an officer and director until October, 1995. The actions of Pangia, Capista and Dallas North in relation to the sale of the shares constituted trading.

[7] Further, Pangia engaged in activities which constituted trading in EPA shares in Ontario between June, 1995 and August, 1995, where such trading was a distribution of those securities, without the required filing of a preliminary prospectus and prospectus. Those distributions involved at least 26,000 shares of EPA, for which purchasers paid a total of approximately \$84,500.00.

[8] Registered representatives employed by TD Evergreen, in 1995 a division of TD Evergreen Investment Services Inc. and in 1996 a division of TD Securities Inc., also participated in the sale of shares of EPA by Pangia, Capista and Dallas North. These sales of EPA shares were not recorded in the books and records of TD Evergreen.

[9] The registered representatives, Simon Kin-Ho Tam, Woody Woo-Keung Wu and April Shuk-Fan Che, were disciplined by the Investment Dealers Association of Canada in 2002.

[10] TD Evergreen has made payment to certain of the persons who purchased EPA shares, including those who purchased EPA shares during the material time. To date, these payments exceed \$3 million.

[11] In addition, between October, 1995 and October, 1996, Capista participated in the sale of approximately 135,200 shares of EPA to the public for proceeds of \$237,700.00.

[12] By engaging in the conduct described above:

- a) Pangia, Capista and Dallas North sold shares of EPA without being registered to trade in securities as required by section 25 of the Act; and
- b) Pangia traded in shares of EPA where such trading was a distribution of those securities, without filing a preliminary prospectus and a prospectus as required by section 53 of the Act.

[13] Further, the conduct described above was contrary to the public interest.

**From the Transcript:**

**Vice-Chair Moore:**

[14] We approve the settlement as being in the public interest. We are no longer in camera. The agreement is in the public interest because the sanctions are appropriate in this particular case.

[15] We note that there were no allegations of misleading the public and no allegations that suggest to us deliberate, dishonest conduct, in the sense of egregiousness. But there was flagrant disregard of the cease-trade order from the British Columbia Securities Commission, and that is a very serious matter.

[16] We note that there were no prior disciplinary actions, according to counsel, against the respondents. But we also note that TD Evergreen paid \$3 million to clean up client accounts. And the agreed statement of facts strongly suggests to us that the public may well have been misled as to who they were dealing with.

[17] So the facts reveal a serious situation. They suggest that sanctions that would be appropriate in this case are those towards the severe side. We notice that the sanctions recommended in the agreement - the joint recommendation - are as extreme as one can go, with respect to a permanent ban on trading and a permanent cease-trade order with no carve-outs. We also note that there is a permanent ban on acting as a director or officer of any issuer. That would include not only a public company, but private companies. There is a reprimand.

[18] We also note that the respondents are represented by counsel. It is difficult for this Commission, and I think inappropriate for this Commission, to try to second-guess respondents by coming to the view that agreed sanctions are tougher than they should be. A settlement and agreed statement of facts often only disclose the material facts that are necessary in order for the Commission to form the opinion that the settlement is not contrary to the public interest. Where respondents are represented by counsel we should not, usually, be concerned whether sanctions may be tougher than absolutely necessary. We suspect that if the full facts of this matter were known by us, we would feel totally comfortable with the toughness of the sanctions. I am not saying we are uncomfortable; we are totally comfortable that the permanency of the bans in the sanction order is justified.

[19] So we do approve this settlement as being not contrary to the public interest. It does meet our mandate of removing from the public marketplace those persons whose conduct has wreaked harm on the public and can be anticipated to wreak harm in the future if something is not done. The sanctions are prophylactic in that regard.

[20] Would Mr. Pangia and Mr. Capista please stand? You are hereby reprimanded. You have breached the *Securities Act* of Ontario. This is a serious matter. We appreciate the fact that you recognize the seriousness of this.

[21] These sanctions being imposed on you are serious sanctions, and do show that we do not treat these matters lightly. You may sit down.

[22] If there is nothing further, then this hearing is terminated.

Approved by the chair of the panel on January 6th, 2004.