

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

AND

**IN THE MATTER OF
MARK EDWARD VALENTINE**

Hearing: February 2, 2004

**Panel: Wendell S. Wigle, Q.C. - Chair of the Panel
M. Theresa McLeod - Commissioner
Paul K. Bates - Commissioner**

**Counsel: Alexandra S. Clark - For Staff of the
Ontario Securities Commission**

Joseph P. Groia - For Mark E. Valentine

DECISION AND REASONS

On February 2, 2004, the Commission conducted a hearing to consider if it was in the public interest for the Commission to extend a temporary order against Mark Edward Valentine, dated July 28, 2003. A temporary order was originally issued on June 17, 2002 (the "Original Order"), pursuant to section 127(1) of the Securities Act, R.S.O. 1990, c.S.5 as amended. The Original Order was extended on July 8, 2002, February 14, 2003 and again on July 28, 2003. On January 29, 2004, staff of the Commission issued an Amended Amended Statement of Allegations in this matter.

At the hearing, staff sought to further extend the temporary order under the same terms and conditions as the order of July 28, 2003, pending the completion of the hearing on the merits in this matter. Staff submitted that the risk of harm to the public remained significant enough to outweigh any personal inconvenience to Mr. Valentine that would occur as a result of extending the temporary order. Counsel for the respondent did not oppose the continuation of Mr. Valentine's registration suspension until the commencement of the hearing; however, counsel for the respondent did oppose the Commission making another cease trade order. Counsel for the respondent requested that the cease trade order should be varied to allow Mr. Valentine to participate in trading that is not presently permitted under the terms of the July 28, 2003 order. In addition, counsel for the respondent submitted that if the additional trading abilities as requested by the respondent were permitted, that the imposition on Mr. Valentine of a reporting regime would address any public interest concerns. Counsel for the respondent submitted that the temporary order should not be extended past the commencement of a hearing in this matter.

We have considered the submissions of counsel, in particular counsel for the respondent's submission that Mr. Valentine's permissible trading activities be expanded to include those securities listed on the 'NASDAQ' market, including the over-the-counter market, on the basis that his previous trading took place almost exclusively in these markets and the Chicago Mercantile Exchange, and that Mr. Valentine has 'no real experience in, he had no particular expertise in [those areas in which permission to trade has been granted] and it essentially meant for him a denial of his ability to trade. However, we note that the permissible areas of investing activity for Mr. Valentine during the period of the temporary order in fact cover a very

substantial proportion of the value-weighted capitalization of securities in North America, and we are not of the conclusion that an expansion of such is in order at this time.

We consider the terms and conditions of the order to be fair and reasonable insofar as they permit the respondent to trade securities for his own account or for his registered retirement savings plan or registered income fund within the terms set out in the order. Counsel indicated that it was expected the trial could proceed in June 2004 and that the Secretary indicated that a panel was probably available at that time to hear the matter. In the circumstances, we considered it in the public interest to continue the temporary order of July 8, 2002, on the same terms and conditions as the order of February 14, 2003 and July 28, 2003 until July 31st 2004 or the commencement of the final hearing in this matter, whichever comes first.

If, for any reason, the hearing does not start before July 31st, 2004, Staff may apply for an order to extend this order for such further period as this commission considers appropriate.

Dated at Toronto this 4th day of March, 2004.

“Wendell S. Wigle”

“M. Theresa McLeod”

Wendell S. Wigle

M. Theresa McLeod

“Paul K. Bates”

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