

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Terrence William Marlow, Marlow Group Private Portfolio Management Inc. and Marlow Group Securities Inc.

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

AND

IN THE MATTER OF
TERRENCE WILLIAM MARLOW,
MARLOW GROUP PRIVATE PORTFOLIO MANAGEMENT INC. AND
MARLOW GROUP SECURITIES INC.

ORAL DECISION AND REASONS

Hearing: May 25, 2006.

Panel: Paul M. Moore, Q.C. - Vice-Chair (Chair of the Panel)
Suresh Thakrar - Commissioner

Counsel: Gregory MacKenzie - On behalf of Staff of the
Ontario Securities Commission
David Richardson - Agent for Terrence William Marlow

The following text has been prepared for purposes of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the chair of the panel for the purpose of providing a public record of the decision.

- [1] CHAIR: Please be seated. We approve the settlement agreement as being in the public interest.
- [2] Briefly the facts are that Mr. Marlow, who was or still is a chartered accountant and a long-time partner of one of the major accounting firms in Canada, left the firm many years ago and was interested in investments. He had many friends invest in his companies. These companies ran into difficulty partly through what appears to be, from the record, misappropriation of assets. Although it's not actually clear what went wrong, it appears that monies were not carefully accounted for or spent on the wrong things. Whatever happened, the investments have gone sour. The two companies are in bankruptcy. Mr. Marlow is in receivership. Mr. Marlow has lost everything. He is in his mid 60s. He's on welfare and has no significant assets not committed to the receiver.
- [3] We heard from Mr. Richardson who is acting as agent for Mr. Marlow. We heard that he has been acting in the receivership and the bankruptcies at the request of former partners at the accounting firm and at the law firm that Mr. Marlow dealt with. Mr. Richardson advised that the investors involved in this are not clamoring for Mr. Marlow's blood. Although Mr. Richardson didn't give evidence, we take his advice as equivalent to a victim impact statement.
- [4] It's clear that Mr. Marlow shouldn't have done whatever he did, that he had the background and training as an accountant to keep track of things and not make the mistakes he made. It appears he has paid dearly.
- [5] We were interested in the fact that there was no monetary penalty provided for in the settlement agreement. Absent special facts in this case, we would have anticipated a monetary penalty in order to be satisfied that this agreement was in the public interest. However, we understand that in the receivership, recovery is likely to be limited to 60 percent, and that the investors who were hurt by this series of events are behind the instigation of the receivership and bankruptcies and are taking a very active role in them.

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- [6] We understand Mr. Richardson, who has background in the insolvency/bankruptcy area, has been involved at the behest of investors in this matter. He believes that the settlement agreement is in everyone's interest and that any provision for a monetary payment against Mr. Marlow would not be helpful in light of the receivership.
- [7] Accordingly, we determine that the sanctions that are provided for in the settlement agreement are reasonable; that it is appropriate to order that Mr. Marlow cease trading permanently with the carve-outs provided in the draft order; that Mr. Marlow be denied exemptions available under the *Securities Act* as provided in the draft order; that Mr. Marlow be reprimanded; and that Mr. Marlow resign any positions he holds as director or officer of any issuer; and that he be permanently prohibited from becoming or acting as an officer or director of any issuer.
- [8] We understand that this is a sad state of affairs, and we believe that this settlement agreement brings a proper conclusion to the Commission's interest in this matter.

Approved by the chair of the panel on June 1, 2006.

"Paul M. Moore"