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

- AND -

IN THE MATTER OF RENE PARDO, GARY USLING, LEWIS TAYLOR SR., LEWIS TAYLOR JR., JARED TAYLOR, COLIN TAYLOR AND 1248136 ONTARIO LIMITED

CONFIDENTIAL
REASONS AND DECISION ON
MOTION FOR PARTICULARS
[Editors Note: Made public on September 8, 2010.]

Hearing:	August 23, 2007	
Reasons and Decision:	September 7, 2007	
Panel:	Wendell S. Wigle, Q.C.	- Commissioner (Chair of the Panel)
	James E. A. Turner	- Vice-Chair
Counsel:	Emily Cole Lissette Torres	- For Staff of the Ontario Securities Commission
	Brian Greenspan Peter Copeland	- For Lewis Taylor, Sr. and Lewis Taylor Jr.
	Fred Platt	- For Jared Taylor, Colin Taylor and 1248136 Ontario Limited

CONFIDENTIAL
REASONS AND DECISION

I. Introduction and Background

[1] On November 16, 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "*Securities Act*") together with a Statement of Allegations (the "Statement of Allegations"). The Notice of Hearing and the Statement of Allegations named the following as respondents: Mega-C Power Corporation ("Mega-C"), Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited (the respondents, other than Mega-C, are referred to collectively as "the Respondents"). An Amended Notice of Hearing and an Amended Statement of Allegations were issued by the Commission on February 6, 2007 discontinuing proceedings against Mega-C. It is alleged that the Respondents have violated sections 25, 38 and 53 of the *Securities Act* in connection with certain trading in securities that took place from August 2001 through mid-2003.

[2] By Order dated December 6, 2006, issued following a pre-hearing conference, the Commission ordered the hearing on the merits to commence on October 29, 2007. The hearing is expected to proceed over the following six weeks.

[3] On July 26, 2007, the Commission issued confidential reasons ordering that constitutional challenges brought by certain of the Respondents be dealt with at the discretion of the panel that will be hearing the matter on the merits.

[4] On August 15, 2007, a notice of motion for particulars was filed with the Commission by Jared Taylor, Colin Taylor and 1248136 Ontario Limited (collectively, the "Taylor Group"). On August 16, 2007, a substantially similar motion for particulars was filed by Lewis Taylor Sr. and Lewis Taylor Jr. (the "Taylors") (the Taylor Group and the Taylors are collectively referred to as the "Moving Parties"). The Taylors' motion also included a request for an order of the Commission requiring Staff of the Commission ("Staff") to fulfill an "undertaking" to the Respondents given on February 1, 2007, to provide certain particulars.

[5] The submissions of the Moving Parties were heard at an *in camera* hearing held on August 23, 2007.

[6] The detailed allegations against the Respondents are set forth in the Statement of Allegations. In addition to those allegations, Staff has provided substantial and comprehensive disclosure of materials to the Respondents. Staff has delivered approximately 21 binders of material to the Respondents containing, among other materials, 52 investor questionnaires, 13 transcripts of interviews and 26 telephone interviews. The binders contain approximately 9,964 pages of material. The Respondents

have had a substantial portion of that material in their possession for approximately 15 months. Staff also recently sent a letter dated July 13, 2007 to counsel for the Moving Parties containing the disclosure of additional particulars (the "July Letter").

1. Pre-Hearing Meeting

[7] Prior to the current motion for particulars, counsel for the Taylor Group had previously filed a motion for particulars on July 18, 2006. That motion was opposed by Staff.

[8] On February 2, 2007, Staff and counsel for the Respondents attended a pre-hearing meeting that was held on a without prejudice basis. We understand from the materials before us that at that meeting, a proposal was made by Staff that they would direct the Respondents to those portions of the disclosure already made that would satisfy their request for particulars and, as a result of that proposal, the earlier particulars motion was adjourned *sine die*.

[9] The Moving Parties take the position that the proposal constituted an "undertaking" or "promise" by Staff to provide additional particulars and that that obligation has not been honoured. The Moving Parties refer to a number of letters between Staff and counsel for the Respondents in which the Moving Parties say that Staff acknowledged the existence of the commitment.

[10] Staff submits that it had no legally binding obligation to disclose additional particulars, but in any event it has complied with the commitment by delivering the July Letter. It was, and remains, Staff's position that: "the Statement of Allegations, combined with the comprehensive disclosure provided, furnishes the Respondents with reasonable and adequate information to know the case to meet and establish his or her defence" (Letter of Staff dated August 4, 2006). This position was reiterated by Staff in a letter dated October 25, 2006 delivered to counsel for the Taylor Group and in the July Letter.

II. The Obligation to Deliver Particulars

[11] The legal question to be decided on these motions is not in dispute. In order to satisfy the Commission's duty of procedural fairness to the Respondents, Staff has an obligation to provide the Respondents with particulars of the material facts related to the Respondents' alleged breaches of the *Securities Act*. Those particulars are required in order to permit the Respondents to know the case they must meet and to make full answer and defence. The principal issue to be determined is whether Staff has provided sufficient particulars to the Respondents to satisfy that obligation. The related issue to be determined is whether Staff gave an undertaking to the Respondents to provide additional particulars and, if so, whether Staff has complied with that obligation.

III. Submissions of the Parties

[12] The Moving Parties filed one factum. The Taylor Group relied on the factum of the Taylors and agreed with the submissions reflected in that document. At the hearing, counsel for the Moving Parties each argued different aspects of this matter, while agreeing with the submissions made by the other. Counsel for the Taylor Group argued that Staff's allegations and the disclosure made to them contained insufficient particulars in order for the Respondents to adequately know the case they must meet. Counsel for the Taylors argued that Staff had given an undertaking or made a promise to the Respondents that it would provide additional particulars to the Respondents and has failed to do so.

1. The Taylor Group's Submissions

[13] Counsel submitted that the level of detail contained in the Statement of Allegations and the comprehensive disclosure made by Staff are insufficient to allow the Respondents to properly prepare a defence. In particular, counsel argued that the allegations inadequately distinguish between the individual respondents with regard to their specific acts, fail to list or identify specific transactions that are alleged to be contrary to the *Securities Act*, and fail to provide the factual details related to those matters, such as names, dates, and places. Counsel submitted that the allegations made in the Notice of Hearing and the Statement of Allegations are principally legal conclusions that are devoid of facts.

[14] Counsel submitted that there are four "principles" that apply to the requirement to give particulars. First, particulars are granted so that respondents will know the allegations against them and will be able to make full answer and defence. Second, particulars must be a statement of all the alleged material facts. Third, according to the Commission's Rules of Practice and the *Statutory Powers and Procedures Act* ("*SPPA*"), if the character, conduct or competence of a person is at issue, then reasonable information and particulars with respect to the allegations must be provided regarding that conduct. Counsel submitted that the obligation created by Subrule 3.4 of the Commission's Rules of Practice has been engaged in these circumstances and that disclosure is not a substitute for particulars.

[15] Addressing the last principle, counsel submitted that the amount of disclosure given to the Respondents is too voluminous to review and understand without the focus that particulars would provide. Counsel also submitted that, since the conduct of the Respondents is alleged to be contrary to the public interest, more particulars are required to be given than in other cases.

[16] Counsel reviewed the allegations in detail and identified facts that, in his view, were unknown and that were necessary in order for the Respondents to make full answer and defence.

[17] Counsel also argued that because Staff has the power to compel evidence in connection with a regulatory hearing, they have a heightened obligation to disclose particulars to respondents because respondents have no comparable opportunity for discovery of the material facts.

2. The Taylors' Submissions

[18] Counsel argued that Staff, at the pre-hearing meeting held on February 2, 2007, had "undertaken" or "promised" to provide answers to the questions asked by the Respondents with respect to the material facts that form the basis for the allegations against them. In support of this position, counsel took the Commission through the lengthy correspondence between Staff and the Respondents to establish that an undertaking or promise with respect to particulars was given, but not fulfilled.

[19] Counsel submitted that there are two reasons for the obligation to provide particulars. First, particulars allow the Respondents to know the case to be met, and second, they assist in defining the issues to be argued at a hearing and aid the adjudicator in making evidentiary rulings. Counsel relied upon the case of *Regina v. Armour Pharmaceuticals* (2007), 205 C.C.C. (3d) 97 (Ont. Sup. Ct.) ("*Armour*") as authority for that submission. Counsel argued that if appropriate particulars are given, the hearing of a matter will proceed more smoothly and efficiently because the issues will be articulated more clearly.

[20] Counsel also took issue with several of the arguments made by Staff. He first argued that Staff was confusing the concept of giving particulars with the concept of making disclosure, and reiterated that disclosure is not a substitute for particulars. He also submitted that the amount of disclosure already given to the Respondents is too voluminous to allow them to assess it and identify the facts supporting each allegation.

[21] Counsel also argued, by analogy to *Armour*, that in highly 'document based' cases, there is a higher duty to provide particulars because of the complexity of such cases.

[22] Finally, counsel disagreed with Staff's written submission that, because respondents are not registrants, they are due a lower standard of procedural fairness than registrants. Counsel disputed Staff's interpretation of the case of *Re Lett* (2004), 27 O.S.C.B. 3215 (Ont. Sec. Comm. (QL) ("*Re Lett*"), pointing out that while the burden of proof in a non-disciplinary case may be lower, the duty of fairness is not affected.

3. OSC Staff's Submissions

[23] At the outset of their submissions, Staff submitted that they have given no formal undertaking or promise to the Respondents with respect to providing particulars. While there may have been a proposal to provide certain particulars, that proposal was made at a without prejudice pre-hearing meeting, and did not constitute a formal, legally enforceable undertaking. Staff argued in any event that if an undertaking was given by Staff, it has

been complied with through the very extensive disclosure already made by Staff including the disclosure in the July Letter.

[24] Staff's main submissions were divided into three areas: the nature of these proceedings, the level of particularization legally required, and why that standard has been met in this case.

[25] Staff argued that, because the Respondents are not registrants, they are owed a lower duty of procedural fairness because the potential sanctions that can be imposed on the Respondents are less severe than the sanctions that can be imposed on a registrant. Essentially, because a registrant can lose his or her livelihood if registration is terminated, the potential impact of a regulatory proceeding on a registrant is greater than on non-registrants. Staff also submitted that the public interest mandate of the Commission is more important than and takes precedence over the duty of procedural fairness owed to the Respondents.

[26] In arguing the level of particulars required, Staff relied on the case of *R v. Govedarov* [1974] 25 C.R.N.S. 1 ("*Govedarov*") where it was held that the purpose of particulars is to provide the defence with the case to be met insofar as doing so does not fetter the ability of the prosecution to make their case. It was held in *Govedarov* that, at least in the circumstances of that case, quoting directly from the relevant section of a legislative provision is sufficient to frame a charge. Staff argued on that basis that since all of the allegations against the Respondents refer directly to the provisions of the *Securities Act*, the allegations themselves are sufficient and adequately inform the Respondents of the nature of the case they have to meet. Staff also submitted that because the allegations focus on the Respondents' conduct as a group, that focus should reduce the level of particulars required to be given to each of the Respondents.

[27] Staff also submitted that the disclosure already made is neither overly voluminous nor complex and is well organized. Staff submitted that after separating the "wheat from the chaff", the Respondents will have a sufficient knowledge of the allegations against them to make full answer and defence. Staff also noted that the Respondents have personal knowledge of their involvement in the matters that are before the Commission. Based on the foregoing, Staff argued that the Respondents already know, in fact, the particulars of the allegations against them and no further particulars are necessary.

[28] Turning to the case law, Staff quoted from the Commission decision in *Belteco Holdings Inc.* (Re) [1997] 20 O.S.C.B. 1333 (Ont. Sec. Comm.) (QL) ("*Belteco*"), highlighting the conclusion in that case that it is not the duty of Staff to answer questions regarding what evidence it will bring and Staff is not obligated to provide a roadmap of its case. Staff also relied on the decision of the British Columbia Court of Appeal in *British Columbia (Securities Commission) v. Pacific International Securities Inc.* [2002] B.C.J. No. 1480 (B.C.C.A.) (QL) ("*Pacific International*") where it was held that individualized particulars are not required where allegations are made against respondents as a group.

[29] Finally, Staff submitted that this case is no more complex or complicated than any other similar illegal trading case that comes before the Commission, and that to require more detailed particulars in such a simple case would unduly hinder Staff in their future enforcement efforts. The Commission, it was argued, is a regulatory body that cannot be expected to comply strictly with the rules of criminal courts with respect to giving particulars.

IV. Legal Analysis

1. The Obligation to Provide Particulars

[30] The foundation for the requirement to provide particulars is the duty of procedural fairness owed to respondents: that is, the right of a respondent to know the case to be met. In the Commission decision in *Re YBM Magnex International Inc.* (2000), 23 O.S.C.B. 1171 (Ont. Sec. Comm.) ("*YBM Magnex*"), the Commission stated that "in a hearing of this nature, fairness requires sufficient particularization of the allegations to define the issues, prevent surprise and to enable the parties to prepare for the hearing." We accept that as the correct legal test; we would only add that avoiding surprises means that hearings of the Commission can be held fairly, efficiently and without undue delay.

[31] The Commission has expressly recognized the obligation of Staff to provide particulars. Subrule 3.4 of the Commission's Rules of Practice state that "Subject to Subrule 3.7, if the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party making the allegations shall, as soon as is reasonably practicable after service of the notice of hearing, and in any case at least 10 days before the commencement of the hearing, provide particulars of the allegations and disclose to the party against whom the allegations are made all documents and things in the party's possession or control relevant to the allegations including:

> (a) all signed witness statements, or if these do not exist, transcripts or notes of witness interviews or, if none of the foregoing exist, statements of evidence that each witness is expected to give; and
>
> (b) all experts' reports."

[32] In addition, Subrule 3.1(2) of the Commission's Rules of Practice states that "Particulars shall include,

> (a) the grounds upon which any remedy or order is being sought or opposed in the proceeding; and
>
> (b) a general statement of the material alleged facts that the party relies on in support of the position being taken by the party in the proceeding."

[33] In our view, Commission Subrule 3.4 applies to the current matter before the Commission involving the Respondents.

[34] Commission Subrule 3.4 is based upon, and refers to, section 8 of the *SPPA*. However, we note that the two provisions are not identical. The *SPPA* requires that "reasonable information" be provided to a respondent. Commission Subrule 3.4 heightens the disclosure requirement and requires "particulars" including a statement of the "material alleged facts" to be provided. It is also clear that the Commission's Rules of Practice distinguish between the obligation to provide disclosure and the obligation to provide particulars of the material alleged facts.

[35] Although particulars inform the nature of the case to be met, they do not inform the mode in which a case will proceed (*YBM Magnex*). There are two distinctions that should be made with regard to the nature of particulars. First, particulars relate solely to matters of fact (what happened) and are not given to answer questions of law (whether what happened is legal or illegal). Secondly, there is a clear distinction between particulars (the material facts underlying an allegation) and disclosure (all the information, documents and things that must be disclosed to respondents as a matter of fairness). As noted in *YBM Magnex*, the obligation to make disclosure requires Staff to give the Respondents full disclosure of all relevant documents and things Staff possesses relevant to the allegations against the Respondents. That does not, however, relieve Staff from the duty to provide particulars.

[36] In *YBM Magnex*, the Commission noted the distinction between questions of fact and questions of law, and agreed that particulars relate to facts. Staff is not required to answer 'how' an action violates the *Securities Act*, as that is a question of law or mixed fact and law. To satisfy the requirement for giving particulars, Staff must simply identify the conduct in question without having to show exactly why that conduct may be contrary to securities law.

[37] In *Belteco*, the Commission held that for the purpose of providing particulars, Staff is not required to specify which evidence applies to which alleged illegality and respondent. To do so would go beyond providing the underlying facts of the allegations and would confuse particulars with disclosure. In *Belteco*, by requesting specific answers regarding the evidence, the moving party was requesting not particulars but an enhanced form of disclosure that Staff is not required to provide.

[38] We agree with counsel for the Taylors that as stated in *Armour*, "particulars also define the issues and ensure that the trial judge is capable of making evidentiary rulings particularly with respect to relevance." Since the material facts will have to be proven at the hearing on the merits in any event, providing them in advance helps to frame the issues and make the hearing more focussed and efficient.

[39] In summary then, we have concluded that Staff has an obligation to disclose particulars to the Respondents. That obligation relates to the disclosure of material facts and is independent of the obligation to make disclosure generally. We also agree that, as stated in *Belteco*, the obligation to disclose particulars does not require disclosure of evidence or the obligation to provide a roadmap of how Staff intends to prove its case.

2. The Duty of Procedural Fairness

[40] The extent of the duty of procedural fairness owed by the Commission to the Respondents must be considered in order to determine the level of particulars required to be given to the Respondents. The most comprehensive analysis of the duty of procedural fairness owed by a provincial securities commission is in *Pacific International*, a decision of the British Columbia Court of Appeal. The Court in that case concluded that the decision of the British Columbia Securities Commission (the "BC Commission") not to grant additional particulars did not breach its obligation of procedural fairness and that, given the public interest mandate of the BC Commission, it should not be required to apply the same standard of procedural fairness as a criminal court. The *Pacific International* case adopted the analysis in *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] S.C.J. No. 39 (S.C.C.) (QL) ("*Baker*") which set forth the five factors a tribunal should consider in determining the level of procedural fairness owed in particular circumstances.

[41] Specifically, the Court found in *Pacific International* that while the BC Commission's hearing in that case was in many ways akin to a criminal proceeding, the BC Commission has competing demands as a result of its public interest mandate and the mandate to foster fair and efficient capital markets. Those demands qualify the standard of procedural fairness required. That being said, respondents have a legitimate expectation to know the case brought against them and are entitled to receive particulars that allow them to do so. The Court also held that as an administrative body, the BC Commission has control of its own procedure, which allows it, to an extent, to decide what level of procedural fairness is due to a respondent. In *Pacific International*, the Court also noted that particulars are not required to be delivered in any particular form, so long as the substance meets the applicable standard of fairness and allows the respondents to know the case against them. The Court considered the institutional constraints applicable to the BC Commission and found that given its right to establish its own procedures while balancing its broader mandates, the decision of the BC Commission not to require further particulars should be given weight. We adopt the reasoning and analysis in *Pacific International*.

[42] In *YBM Magnex* the Commission discussed the standard of procedural fairness to be applied in a Commission hearing and commented that while the duty of fairness requires sufficient particularization to allow the parties to know the issues and prevent surprise, it would be inappropriate to treat a statement of allegations as a criminal indictment. That is because the Commission has public interest responsibilities and a mandate to protect investors from unfair, improper and fraudulent practices and to foster fair and efficient capital markets and confidence in their integrity. As a result, the standard to be applied by the Commission is one that is less stringent than in a criminal proceeding.

[43] In our view, the Respondents are owed a duty of procedural fairness by the Commission and we do not accept that the standard of fairness is lower because the Respondents are not registrants. The sanctions the Commission can impose are substantial and could have a very serious impact on any respondent. While we are conscious of the Commission's public interest mandate and responsibilities, we nonetheless believe that the

Commission must provide a substantial level of procedural fairness to respondents in circumstances such as these. We have considered and adopted the five point test in *Baker* as our guide in reaching our decision in this matter. We agree, however, that Staff is not required to meet the criminal standard in providing particulars.

[44] In our view, Staff has delivered to the Respondents comprehensive disclosure in a relatively manageable form. That disclosure includes investor questionnaires that set out succinctly and effectively very focused and relevant facts related to each investor. We believe that the Statement of Allegations, together with all of the other information already disclosed to the Respondents by Staff, should convey to them clearly the nature of the case they have to meet. We also note that the Respondents have had possession of a substantial portion of that information for a significant period of time.

[45] But, as reflected in Subrule 3.4 of the Commission's Rules of Practice and as held in *YBM Magnex*, there is a difference between providing disclosure and providing particulars. The Commission has an interest in ensuring that appropriate particulars are communicated to respondents both as a matter of fairness to them but also to avoid surprises that could potentially interfere with and cause the delay of a hearing. Pre-hearing conferences are held, in part, to attempt to ensure that hearings are conducted in a fair and efficient manner. One of the important reasons to hold such pre-hearing conferences is to address questions such as the entitlement of respondents to adequate particulars. We strongly support the use of the pre-hearing conference to bring procedural order to otherwise contentious issues.

[46] In considering the motions before us, we have considered the level of particulars provided by Staff in *YBM Magnex*. We have also been influenced in our decision by the description of the particulars provided in the *Pacific International* case. We recognise that the legal principles relating to the obligation to provide particulars are relatively clear; applying them in the particular case is the challenge. Clearly each case must be decided on its own facts and circumstances.

[47] We also recognise that it is difficult for us to make a decision as to the extent of particulars that are required without a full understanding of all of the specific information that has been provided to the Respondents. It is not appropriate for us to review all of the detailed information provided in this matter. We must make our decision based on the more general evidence and submissions made to us. Having said that, the panel hearing this matter on the merits will be in the best position to fully address whether the level of particulars actually provided to the Respondents meets the appropriate level of procedural fairness and to take appropriate action if it does not.

[48] In rendering this decision, we have taken into consideration the regulatory nature of these proceedings and their public interest implications. We believe that Staff is entitled to make an allegation that the conduct of the Respondents is, in all the circumstances, contrary to the public interest within the meaning of the *Securities Act*. Provided the circumstances underlying such allegations are appropriately particularized, we do not believe that Staff is required to provide detailed particulars of all the matters that bear on

the question whether the Respondents have acted contrary to the public interest. Staff is alleging in this case that the Moving Parties, who are all family members or a related company, participated as a group or in concert in breaching Ontario securities laws. Consistent with the decision in the *Pacific International* case, we do not believe that, in this case, Staff has an obligation to provide any additional particulars as to the specific involvement or actions of each Respondent.

[49] In our view, however, framing the allegations against the Respondents in terms of the specific sections of the *Securities Act* that are alleged to have been breached is not a sufficient particularization of the allegations.

3. The Commitment to Provide Particulars

[50] On the evidence before us, Staff proposed at the February 2, 2007 meeting and at the pre-hearing conference on February 20, 2007 to provide the Respondents with disclosure that "included directing the respondents to the disclosure that answers all of the questions they're asking" (Transcript of the February 20, 2007 Pre-hearing Conference). Staff expressly acknowledged on the record at the pre-hearing conference that it would comply with this proposal. In our view, making that proposal was both appropriate and desirable. The Respondents' pending motion for particulars was adjourned *sine die* awaiting Staff's response. After considerable delay, Staff's July Letter to counsel for the Moving Parties purported to fulfill Staff's proposal. The Moving Parties took the view that the July Letter did not satisfy their request for particulars and, as a result, these motions were brought forward.

[51] The commitment made by Staff was at best unclear and open to dispute. We recognise, and are prepared to accept in the circumstances, that Staff takes the view that it has complied with its commitment. Accordingly, at the end of the day, we dismiss the Moving Parties' motion to enforce the terms of Staff's commitment.

4. Additional Particulars

[52] In our view, based on the analysis above, Staff should provide some additional particulars to the Respondents in this matter. We are therefore directing Staff to provide the following additional particulars to the Respondents, as soon as reasonably possible, to the extent that Staff considers that such facts will be in issue at the hearing on the merits. Specifically, we direct Staff to:

1. Identify the specific issuances of shares and transfers that Staff alleges constitute illegal distributions. That identification should include the dates of the relevant trades, the persons directly effecting the trades and the persons to whom the shares were issued or transferred;

2. Disclose the dates of the various solicitation meetings held by Mega-C or the Respondents and identify the persons who, to Staff's knowledge, were present

including both potential investors in Mega-C and the Respondents (we recognize that Staff will not be able to identify, and need not identify, everyone present at such meetings);

3. Identify the following documents, the investors to whom they were sent and the persons by whom they were sent: (i) the August 24, 2001 Confidential Offering Memorandum, (ii) the November 2001 Confidential Business Plan, (iii) the Reserve Shares Form, and (iv) the June and/or October 2002 letters (again, we recognize that Staff will not be able to identify, and need not identify, everyone to whom such documents were sent);

4. Identify any allegedly illegal oral representations made by Mega-C or any of the Respondents to investors and provide particulars of when those representations were made, to whom and by whom they were made and the specific nature of the representations; and

5. Identify what cash, if any, it is alleged was received by the individual Respondents in connection with the alleged illegal distributions referred to above.

[53] With respect to the disclosure referred to in paragraph 1 above, we are not requiring that Staff give particulars of any additional acts in furtherance of the particular trades by each of the Respondents.

[54] We believe that Staff will be able to comply with this direction by referencing the disclosure already provided to the Respondents by Staff, including certain of the disclosure in the July Letter.

[55] In directing that Staff make disclosure of these particulars, we are attempting to balance the Moving Parties' right to procedural fairness and the Commission's regulatory responsibilities. In our view, this decision is consistent with the decision in *Belteco* because we are not directing the disclosure of evidence or requiring Staff to deliver a roadmap of how Staff intends to conduct its case. In our view, complying with this decision will not prejudice the conduct of Staff's case or unduly restrict or fetter Staff's ability in the future to effectively carry out its enforcement function.

[56] We note that because this proceeding is regulatory in nature, the Statement of Allegations is not formally amended by any of the particulars provided to the Respondents, as it would be in a criminal proceeding. Counsel for the Taylors acknowledged that. As a result, Staff is not bound to the specific proof of the material particulars provided to the Respondents.

VI. Conclusion

[57] In our view, the allegations made in the Statement of Allegations, the July Letter and all the other comprehensive disclosure made by Staff to the Respondents are not sufficient to permit the Respondents to know the particulars of the case they have to meet and to make full answer and defence. Accordingly, we have directed Staff to provide the additional particulars referred to above. We believe that disclosure of these additional particulars will meet the standard of procedural fairness appropriate in this case without unduly interfering with the Commission's public interest mandate. In our view, the disclosure of the additional particulars required by the this decision should not delay the hearing of this matter on the merits. If that issue arises, the panel hearing this matter on the merits will be best able to resolve it.

[58] This decision shall be publicly released at the commencement of the hearing on the merits.

DATED at Toronto this _7th_ day of September, 2007.

"Wendell S. Wigle"	*"James E. A. Turner"*
Wendell S. Wigle	James E. A. Turner