



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

P.O. Box 55, 19<sup>th</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

CP 55, 19<sup>e</sup> étage  
20, rue queen ouest  
Toronto ON M5H 3S8

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

**- and -**

**IN THE MATTER OF BIOVAIL CORPORATION, EUGENE N. MELNYK,  
BRIAN H. CROMBIE, JOHN R. MISZUK and KENNETH G. HOWLING**

**CONFIDENTIALITY ORDER  
(Biovail)**

**WHEREAS** on March 24, 2008, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing and related Statement of Allegations (the “Notice of Hearing”) against Biovail Corporation (“Biovail”), Eugene N. Melnyk (“Melnyk”), Brian H. Crombie (“Crombie”), John R. Miszuk (“Miszuk”) and Kenneth G. Howling (“Howling”);

**AND WHEREAS** the Commission has approved settlement agreements reached with Biovail, Miszuk, Howling and Crombie;

**AND WHEREAS** a hearing was held to determine whether it was in the public interest to make certain orders in respect of Melnyk (the “Hearing”);

**AND WHEREAS** Staff of the Commission and Melnyk submitted a consolidated hearing brief (the “Consolidated Brief”) for use at the Hearing, containing certain documents (the “Hearing Documents”);

**AND WHEREAS** Biovail brought a motion (the “Biovail Motion”) that the documents listed in Schedule “A” to this order (the “Schedule “A” Documents”) and Schedule “B” to this

order (the “Schedule “B” Documents”) be included in the public record only in redacted form; and an order that the transcript of this proceeding and the written submissions filed in this proceeding be redacted so as to remove references that would disclose the redacted portions of the Schedule “A” Documents and the Schedule “B” Documents (the “Schedule “C” Transcripts & Written Submissions”);

**AND WHEREAS** the Panel ruled on March 11, 2009 that the Hearing Documents at Tab 97 of the Consolidated Brief should only form part of the public record after appropriate redactions, and that testimony concerning these documents should be heard *in camera*;

**IT IS HEREBY ORDERED THAT:**

1. The Schedule “A” Documents, the Schedule “B” Documents and the Schedule “C” Transcripts & Written Submissions shall only be made available to the public in redacted form, as provided to the Commission and the parties as part of the Biovail Motion.

2. All documents ordered redacted pursuant to this order shall include documents tendered into evidence and filed with the Commission in electronic form.

3. The Commission, Melnyk and his counsel, Staff of the Commission, the United States Securities and Exchange Commission (the “SEC”), the parties’ experts, Biovail and its counsel, as well as counsel for Crombie, Miszuk and Howling may be provided with a copy of any documents referred to in paragraph 1 above in unredacted form. Subject to paragraph 4 hereof, such unredacted documents shall be kept confidential and shall not be disclosed to any other person or entity.

4. Melnyk and his counsel, the SEC, the parties’ experts, Biovail and its counsel, as well as counsel for Crombie, Miszuk and Howling may use any unredacted documents referred to in paragraph 3 above in the proceeding commenced by the SEC on March 24, 2008, which is currently pending against Melnyk, Crombie, Miszuk and Howling, subject to any determinations or orders that may be made in that proceeding as to the use that may be made of the unredacted documents, and the rights of all parties including Biovail in that regard are reserved.

5. The terms of this order are subject to any modification or variation made by order of the Commission on its own initiative or on application by Staff or any of the parties, provided notice thereof is given to any of the affected parties.

Dated at Toronto this 20<sup>th</sup> day of August, 2009.

*“James E. A. Turner”*

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James E. A. Turner

*“David L. Knight”*

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David L. Knight, FCA

*“Paulette L. Kennedy”*

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Paulette L. Kennedy

**SCHEDULE "A"**

<b>Consolidated Brief Tab No.</b>	<b>Doc ID</b>
186	BVF_02_003685117
191	BVF_02_003667402
192	BVF_02_0037835341
193	BVF_02_003704929
194	EYC EMF 051227
196	BVF_02_0038303754
197	BVF_02_003802033
198	BVF_02_003685100

**SCHEDULE "B"**

<b>Consolidated Brief Tab No.</b>	<b>Doc ID</b>
97	B099385 B 19523
104	BVF_02_002430653
160	B099289
179	BVF_02_003691213
180	BVF_02_003690274

## SCHEDULE "C"

<i>Document</i>	<i>Page Reference</i>
Examination transcript, March 12, 2009, John Miszuk	29, 46, 47, 48
Examination transcript, April 3, 2009, Brian Crombie	80, 81, 85
Examination transcript, April 15, 2009, Douglas Deeth	132
Closing Argument Submissions of the Respondent Eugene Melnyk, June 9, 2009	124 and 125