



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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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  
LYNDZ PHARMACEUTICALS INC., JAMES MARKETING LTD.,  
MICHAEL EATCH and RICKEY MCKENZIE**

**ORDER  
(Sections 127 and 127.1 of the *Securities Act*)**

**WHEREAS** on December 4, 2008, the Ontario Securities Commission (the "**Commission**") ordered pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") that immediately for a period of 15 days from the date thereof: (a) all trading in securities of Lyndz Pharmaceuticals Inc. ("**Lyndz**") shall cease; (b) all trading in securities by Lyndz, Lyndz Pharma Ltd. ("**Lyndz UK**"), James Marketing Ltd. ("**James Marketing**"), Michael Eatch ("**Eatch**") and Rickey McKenzie ("**McKenzie**") shall cease; and (c) the exemptions contained in Ontario securities law do not apply to the Respondents (the "**Temporary Order**");

**AND WHEREAS** on December 8, 2008, the Commission issued a Notice of Hearing, accompanied by Staff's Statement of Allegations in support of the Temporary Order;

**AND WHEREAS** on December 17, 2008, February 13, 2009, April 21, 2009, July 6, 2009, July 29, 2009, and September 1, 2009, the Temporary Order was continued following a hearing before the Commission;

**AND WHEREAS** on September 23, 2009, following a hearing, the Commission removed Lyndz UK from the Temporary Order and continued the Temporary Order, as amended, until the conclusion of the hearing on the merits;

**AND WHEREAS** on September 23, 2009, Staff issued a Statement of Allegations and the Commission issued a Notice of Hearing with respect to the hearing on the merits;

**AND WHEREAS** the Commission held pre-hearing conferences on May 6, 7 and 19, 2010;

**AND WHEREAS** the hearing on the merits took place on May 31 and June 1, 2010 (the "**Merits Hearing**") and on May 16, 2011, the Commission issued its decision on the merits ("**Merits Decision**");

**AND WHEREAS**, in the Merits Decision, the Commission concluded that Eatch, McKenzie, Lyndz and James Marketing (together, the "**Respondents**") distributed Lyndz

securities without a preliminary prospectus and a prospectus having been filed and received by the Director, no exemption being available, contrary to subsection 53(1) of the Act; and perpetrated a fraud on Lyndz investors, contrary to subsection 126.1(b) of the Act;

**AND WHEREAS** on March 28, 2012, a hearing to consider appropriate sanctions and costs was held before the Commission (the “**Sanctions and Costs Hearing**”);

**AND WHEREAS** Staff filed and served written submissions on sanctions and costs on February 22, 2012, and, on March 28, 2012, counsel for Staff and Eatch, representing himself and Lyndz, appeared at the Sanctions and Costs Hearing and gave oral submissions;

**AND WHEREAS** no one appeared at or participated in the Sanctions and Costs Hearing for McKenzie or James Marketing;

**AND WHEREAS** we were satisfied that McKenzie and James Marketing were given reasonable notice of the Sanctions and Costs Hearing in accordance with section 6 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the “**SPPA**”), and therefore that we were authorized to proceed in their absence, pursuant to s. 7(1) of the SPPA and Rule 7.1 of the Commission’s *Rules of Procedure* (2010), 33 O.S.C.B. 8017;

**AND WHEREAS**, having considered the written submissions of counsel for Staff and the oral submissions of counsel for Staff and of Eatch, we have determined that the following sanctions and costs are in the public interest;

**IT IS ORDERED THAT:**

1. pursuant to paragraph 2 of subsection 127(1) of the Act, all trading in any securities by Eatch, Lyndz, McKenzie and James Marketing shall cease permanently, and all trading in securities of Lyndz and James Marketing shall cease permanently;
2. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Eatch, Lyndz, McKenzie and James Marketing shall cease permanently;
3. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Eatch, Lyndz, McKenzie and James Marketing permanently;
4. pursuant to paragraph 6 of subsection 127(1) of the Act, Eatch and McKenzie are hereby reprimanded;
5. pursuant to paragraphs 7 and 8 of subsection 127(1) of the Act, Eatch shall resign all positions he holds as a director or officer of any issuer and he is prohibited permanently from becoming or acting as a director or officer of any issuer;
6. pursuant to paragraphs 7 and 8 of subsection 127(1) of the Act, McKenzie shall resign all positions he holds as director or officer of any issuer and he is prohibited permanently from becoming or acting as a director or officer of any issuer;
7. pursuant to paragraph 10 of subsection 127(1) of the Act, Lyndz shall disgorge to the Commission the amount of \$400,000, to be designated for

allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act;

8. pursuant to paragraph 10 of subsection 127(1) of the Act, Lyndz and James Marketing shall jointly and severally disgorge to the Commission the amount of \$345,000, to be designated for allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act;

9. pursuant to paragraph 10 of subsection 127(1) of the Act, Eatch, Lyndz and James Marketing shall jointly and severally disgorge to the Commission the amount of \$655,000, to be designated for allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act;

10. pursuant to paragraph 10 of subsection 127(1) of the Act, McKenzie, Lyndz and James Marketing shall jointly and severally disgorge to the Commission the amount of \$700,000, to be designated for allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act;

11. pursuant to paragraph 9 of subsection 127(1) of the Act, Eatch shall pay an administrative penalty of \$500,000, to be designated for allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act; and

12. pursuant to paragraph 9 of subsection 127(1) of the Act, McKenzie shall pay an administrative penalty of \$600,000, to be designated for allocation to or for the benefit of third parties, in accordance with subsection 3.4(2)(b) of the Act.

**DATED** at Toronto this 31<sup>st</sup> day of July, 2012.

*“Mary G. Condon”*

*“Sinan O. Akdeniz”*

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Mary G. Condon

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Sinan O. Akdeniz