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 SHANE SUMAN
AND MONIE RAHMAN**

REASONS AND DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the *Securities Act*)

Sanctions Decision:	August 22, 2012	
Sanctions and Costs Hearing:	July 16, 2012	
Panel:	James E. A. Turner	– Vice-Chair and Chair of the Panel
	Paulette L. Kennedy	– Commissioner
Counsel:	Cullen Price Carlo Rossi	– For Staff of the Ontario Securities Commission
	Sara Erskine	– For Shane Suman and Monie Rahman

TABLE OF CONTENTS

REASONS AND DECISION
ON SANCTIONS AND COSTS

I. BACKGROUND

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") to consider pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") whether it is in the public interest to make an order with respect to sanctions and costs against Shane Suman ("**Suman**") and Monie Rahman ("**Rahman**") (collectively, the "**Respondents**").

[2] This proceeding was commenced by a Statement of Allegations and a Notice of Hearing dated July 24, 2007. An Amended Statement of Allegations was issued on October 7, 2008 and a Further Amended Statement of Allegations was issued on January 20, 2009.

[3] Staff of the Commission ("**Staff**") alleged that Suman, who was at the time an employee of MDS Sciex ("**MDS Sciex**"), a division of MDS Inc. ("**MDS**"), communicated an undisclosed material fact to his wife, Rahman. The material fact was that MDS was proposing to acquire Molecular Devices Corporation ("**Molecular**"), a public company listed on NASDAQ in the United States (the "**Proposed Acquisition**"). Staff alleged that between January 24, 2007 and January 26, 2007, Suman and Rahman purchased Molecular securities with knowledge of the Proposed Acquisition. The Proposed Acquisition was publicly announced on January 29, 2007.

[4] There was no dispute at the hearing on the merits that the Respondents purchased 12,000 Molecular shares and 900 option contracts entitling the holder to purchase an aggregate of 90,000 Molecular shares (the Molecular shares and options purchased by the Respondents are referred to as the "**Molecular Securities**") between January 24, 2007 and January 26, 2007, and sold them all by March 16, 2007 for a profit of $954,938.07 (USD). Nor was there any dispute that Suman was a "person in a special relationship" with MDS, a reporting issuer, or that the Proposed Acquisition was a material fact with respect to both MDS and Molecular that had not been generally disclosed at the relevant time. The key issues in dispute were whether Suman learned of the Proposed Acquisition through his IT role at MDS Sciex, whether he informed Rahman of it, and whether Suman and Rahman purchased the Molecular Securities with knowledge of the Proposed Acquisition.

[5] During the hearing on the merits, Suman represented himself. Rahman was represented by Randy Bennett, Sara Erskine and Mario Thomaidis. The decision on the merits was issued on March 19, 2012 (*Re Suman* (2012), 35 OSCB 2809) (the "**Merits Decision**").

[6] Following the release of the Merits Decision, the Commission held a separate hearing on July 16, 2012 to consider submissions from Staff and counsel for the Respondents regarding sanctions and costs (the "**Sanctions and Costs Hearing**"). Staff appeared at the Sanctions and Costs Hearing and Sara Erskine represented both of the Respondents at that hearing. Staff provided written submissions with respect to the sanctions and costs Staff proposed in the circumstances. Those written submissions were made prior to the convening of the Sanctions and Costs Hearing. Counsel to the Respondents contacted the Office of the Secretary of the

Commission prior to the hearing to inform Staff and the Panel that they were in agreement with Staff's proposed sanctions and costs and therefore would not be providing written submissions. As a result, Staff requested that Staff's written submissions be withdrawn from the record and instead asked the Panel to rely only on their oral submissions at the Sanctions and Costs Hearing.

[7] These are our reasons and decision as to the sanctions and costs to be ordered against the Respondents. A Sanctions and Costs Order giving effect to these reasons is attached as "Schedule A".

II. THE MERITS DECISION

[8] The Merits Decision addressed the following issues:

(a) Did Suman learn of the Proposed Acquisition through his IT role at MDS Sciex?

(b) Did Suman inform Rahman of the Proposed Acquisition?

(c) Did Suman and Rahman purchase the Molecular Securities with knowledge of the Proposed Acquisition?

(d) Did the Respondents act contrary to the public interest?

[9] The Panel concluded in the Merits Decision that:

(a) Suman contravened subsection 76(2) of the Act by informing Rahman of the Proposed Acquisition. That conclusion was based on findings that:

(i) MDS was a "reporting issuer" within the meaning of the Act;

(ii) as an employee of MDS Sciex, a division of MDS, Suman was a person in a special relationship with MDS within the meaning of subsection 76(5)(c) of the Act;

(iii) MDS's proposal to acquire Molecular was a fact that would reasonably be expected to have a significant effect on the market price or value of the MDS shares and options and was therefore a "material fact" with respect to MDS, within the meaning of the Act; and

(iv) Suman informed Rahman, other than in the necessary course of business, of the material fact referred to in paragraph (c) above before that material fact had been generally disclosed;

(b) Suman denied in a Staff interview making purchases of the Molecular Securities;

(c) it is likely that Suman intentionally deleted data and information from his office and home computers after he was expressly warned by Staff not to do so; and

(d) Suman and Rahman acted contrary to the public interest by purchasing the Molecular Securities with knowledge of a material fact with respect to Molecular that had not been generally disclosed.

[10] It is this conduct that we must consider in determining the appropriate sanctions to impose in this matter.

III. THE U.S. JUDGMENT

[11] We were informed at the Sanctions and Costs Hearing that the United States District Court, Southern District of New York, entered a final judgment against Suman and Rahman on March 12, 2010 (the "**U.S. Judgment**"). A copy of the U.S. Judgment was submitted to us in evidence.

[12] The U.S. Judgment resulted from a successful motion for summary judgment brought by the United States Securities and Exchange Commission (the "**SEC**") in a civil enforcement proceeding against Suman and Rahman. The SEC civil enforcement action was commenced on the same day as the issue of the Notice of Hearing in this proceeding and relates to the same underlying misconduct by the Respondents in trading in the Molecular Securities.

[13] The Respondents unsuccessfully appealed the U.S. Judgment to the United States Court of Appeals, which issued a Summary Order on May 5, 2011 affirming the U.S. Judgment.

[14] The U.S. Judgment ordered that:

(a) the Respondents be permanently restrained and enjoined from violating United States securities laws related to securities fraud;

(b) the Respondents pay jointly and severally disgorgement of $1,039,440 (USD), representing the profits gained as a result of the trading in the Molecular Securities alleged in the SEC complaint;

(c) Suman pay a civil penalty in the amount of $2.0 million (USD); and

(d) Rahman pay a civil penalty in the amount of $1.0 million (USD).

[15] Staff requests sanctions, described below, that take into account the sanctions imposed on Suman and Rahman under the U.S. Judgment. But for the U.S. Judgment, Staff submits that they would have sought an order against Suman for full disgorgement of the Respondents' trading profits as found in the Merits Decision ($954,938.07 (USD)) and an administrative penalty of $1,000,000. No disgorgement or administrative penalty can be imposed on Rahman because she was not found in the Merits Decision to have contravened Ontario securities law.

IV. SANCTIONS AND COSTS REQUESTED BY STAFF

[16] Staff requests the following sanctions and costs orders against the Respondents.

Suman

Cease trade and other prohibition orders

[17] Staff seeks an order:

(a) pursuant to clause 2 of subsection 127(1) of the Act, that trading in any securities by Suman cease permanently;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by Suman cease permanently; and

(c) pursuant to clause 8 of subsection 127(1) of the Act, that Suman be prohibited permanently from becoming or acting as a director or officer of a reporting issuer.

Administrative Penalty

[18] Staff submits that an administrative penalty of $250,000 against Suman is appropriate in the circumstances. Staff submits that we found in the Merits Decision that Suman breached subsection 76(2) of the Act, a key provision of the Act prohibiting tipping of undisclosed material facts. Staff submits that a substantial administrative penalty is necessary to deter Suman from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants.

Disgorgement

[19] Staff did not seek an order pursuant to clause 10 of subsection 127(1) of the Act requiring Suman to disgorge to the Commission all amounts obtained as a result of his non-compliance with Ontario securities law. Staff submits that but for the order against Suman under the U.S. Judgment that he pay full disgorgement and a substantial civil penalty, Staff would have requested an order for disgorgement of $954,938.07 (USD), the total amount obtained by Suman as a result of his non-compliance with the Act.

Rahman

Cease trade and other prohibition orders

[20] Staff also seeks an order:

(a) pursuant to clause 2 of subsection 127(1) of the Act, that trading in any securities by Rahman cease for a period of five years, after which she may trade in securities only if any costs awarded against her have been paid in full;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by Rahman cease for a period of five years, after which she may acquire securities only if any costs awarded against her have been paid in full;

(c) pursuant to clause 8 of subsection 127(1) of the Act, that Rahman be prohibited permanently from becoming or acting as a director or officer of a reporting issuer.

Staff's Conclusion on Sanctions

[21] Staff submits that the sanctions proposed by Staff are proportionate to the Respondents' serious misconduct and will serve as a specific and general deterrent. An order permanently removing Suman from the capital markets and requiring Suman to pay a significant administrative penalty, will signal both to Suman and to like-minded individuals that the misconduct in this case was serious and that such conduct will result in severe administrative sanctions. Staff takes the same position with respect to the trading and other bans proposed against Rahman.

Costs

[22] Staff also seeks an order for the payment by the Respondents of the Commission's investigation and hearing costs pursuant to section 127.1 of the Act. Staff submits that the Respondents should be ordered to pay costs of $250,000 in the aggregate; $150,000 to be paid by Suman and $100,000 to be paid by Rahman. Staff submits that those costs are only a portion of the total costs of $517,373.48 incurred by Staff in the investigation and hearing of this matter.

Sale of Securities

[23] We note that Rahman has agreed to sell any securities remaining in the trading account which was used by the Respondents to purchase the Molecular Securities. Counsel for the Respondents submits that approximately $30,000 of securities remains in that account. The proceeds from that sale are to be paid forthwith to the Commission and are to be applied against any costs we award against Rahman.

V. THE POSITION OF THE RESPONDENTS

[24] The Respondents agree with the sanctions and costs proposed by Staff.

VI. SANCTIONS

(i) The Law on Sanctions

[25] The Commission's dual mandate is (a) to provide protection to investors from unfair, improper or fraudulent practices; and (b) to foster fair and efficient capital markets and confidence in capital markets (section 1.1 of the Act).

[26] The Commission's objective when imposing sanctions is not to punish past conduct, but rather to restrain future conduct that may be harmful to investors or Ontario's capital markets. This objective was described in *Re Mithras Management Ltd.* as follows:

> … the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
>
> (*Re Mithras Management Ltd.* (1990), 13 OSCB 1600 at pp. 1610-1611)

[27] Further, the Supreme Court of Canada has recognized general deterrence as an additional factor that the Commission may consider when imposing sanctions. In *Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 at para. 60, the Supreme Court stated that: "…it is reasonable to view general deterrence as an appropriate and perhaps necessary consideration in making orders that are both protective and preventative".

[28] The Commission must ensure that the sanctions imposed in each case are proportionate to the circumstances and conduct of each respondent. The Commission has previously identified the following as some of the factors that a panel should consider when imposing sanctions:

(a) the seriousness of the conduct and the breaches of the Act;
(b) the respondent's experience in the marketplace;
(c) the level of a respondent's activity in the marketplace;
(d) whether or not there has been recognition by a respondent of the seriousness of the improprieties;
(e) whether or not the sanctions imposed may serve to deter not only those involved in the matter being considered, but any like-minded people, from engaging in similar abuses of the capital markets;
(f) the size of any profit obtained or loss avoided from any illegal conduct;
(g) the size of any financial sanction or voluntary payment;
(h) the effect any sanctions may have on the ability of a respondent to participate without check in the capital markets;
(i) the reputation and prestige of the respondent;
(j) the remorse of the respondent; and
(k) any mitigating factors.

(*Re Belteco Holdings Inc.* (1998), 21 OSCB 7743 at p. 7746; and *Re M.C.J.C. Holdings Inc. and Michael Cowpland* (2002), 25 OSCB 1133 ("***Re M.C.J.C.***")

The applicability and importance of such factors will vary according to the circumstances of each case.

[29] Joint submissions on sanctions and costs are being made by Staff and the Respondents. However, we have discretion to impose the sanctions and costs we consider appropriate in the circumstances. Nonetheless, we give significant weight to the joint submissions of Staff and the Respondents.

(ii) Specific Sanctioning Factors Applicable in this Matter

[30] Overall, the sanctions we impose must protect Ontario capital markets by barring or restricting the Respondents from participating in those markets in the future.

[31] In considering the various factors referred to in paragraph 28, we find the following factors and circumstances to be particularly relevant in this matter:

(a) The Seriousness of the Misconduct

[32] The allegations proven in this case involve very serious misconduct and a significant contravention of the Act, as well as conduct contrary to the public interest. As we noted in the Merits Decision, the Commission generally views insider tipping and insider trading as equally reprehensible. We stated in the Merits Decision that:

> … insider tipping and insider trading are not only illegal under the Act but also significantly undermine confidence in our capital markets and are manifestly unfair to investors. Insider tipping of an undisclosed material fact is a fundamental misuse of non-public information that gives the tippee an informational advantage over other investors and may result in the tippee trading in securities of the relevant reporting issuer with knowledge of the undisclosed material fact, or tipping others.
>
> (*Merits Decision*, *supra*, at paras. 21-23)

[33] The Commission has stated that:

> Illegal insider trading by its very nature is a cancer that erodes public confidence in the capital markets. It is one of the most serious diseases our capital markets face. If we do not act in the public interest by sending an appropriate message in appropriate circumstances, then we fail in doing our duty.
>
> (*Re M.C.J.C., supra,* at p. 4; see also *Harper (Re)* (2004), 27 OSCB 3937 at para. 49; *Donnini (Re)* (2002), 25 OSCB 6225 at para. 202)

[34] In this case, we found that Suman breached subsection 76(2) of the Act by tipping Rahman of the Proposed Acquisition and that Suman and Rahman would have breached the insider trading prohibition in subsection 76(1) of the Act if Molecular had been a reporting issuer. While Molecular was not a reporting issuer under the Act, it was a U.S. public company listed on NASDAQ.

[35] Further, we found in the Merits Decision that:

(a) Suman denied in a Staff interview making the purchases of the Molecular Securities, which denial was untrue;

(b) it is likely that Suman intentionally deleted data and information from his office and home computers after having been expressly warned by Staff not to do so;

(c) key aspects of Suman and Rahman's testimony was not credible;

(d) Suman showed consciousness of guilt when he searched for information relating to insider trading and to Martha Stewart on the same day that the Respondents first purchased Molecular securities; and

(e) Suman and Rahman acted contrary to the public interest by purchasing the Molecular Securities with knowledge of a material fact with respect to Molecular that had not been generally disclosed.

[36] The conduct referred to in paragraphs 34 and 35 constitutes serious misconduct by the Respondents that deserves severe sanctions.

(b) The Respondents' Experience and Knowledge

[37] The Respondents each had significant experience in the capital markets as retail investors. Rahman became experienced in day-trading when she took over trading for the Respondents in July 2006.

[38] Further, Suman twice reviewed and certified his compliance with MDS' global business practices policy (prior to his trading in the Molecular Securities) and was aware of the wrongful nature of illegal insider tipping and trading.

[39] Accordingly, the Respondents knew that their actions in purchasing the Molecular Securities with knowledge of an undisclosed material fact were wrongful.

(c) The Sanctions will Deter the Respondents and Like-Minded People from Engaging in Similar Abuses of the Capital Markets

[40] In this case, given the Respondents serious misconduct, severe sanctions are appropriate to deter the Respondents and like-minded individuals from engaging in similar misconduct. The role of a senior information technology professional within a reporting issuer is a role which places the individual in a position of trust. We must deter others in similar positions from abusing that trust.

(d) The Size of any Profit Made or Loss Avoided from the Illegal Conduct

[41] The size of the profit (almost $1,000,000) made by the Respondents through the wrongful tipping and trading was very substantial.

(e) The Restraint Any Sanctions May Have on the Ability of a Respondent to Participate Without Check in the Capital Markets

[42] The requested prohibitions on trading and acting as a director or officer of a reporting issuer will have the effect of restraining the Respondents' participation in our capital markets in a way that is directly related to the Respondents' misconduct in this matter. That misconduct related directly to trading in securities while the Respondents were in possession of an undisclosed material fact.

(f) Impact on Investors

[43] The informational advantage of the Respondents in purchasing the Molecular Securities with knowledge of an undisclosed material fact related to Molecular was manifestly unfair to other investors in Molecular securities.

(g) The Ability of the Respondents to Pay

[44] At the Sanctions and Costs Hearing, we were not provided with any affidavit or other evidence as to Suman's ability to pay any monetary sanctions (as noted above, no such sanctions can be imposed on Rahman because she was not found to have contravened Ontario securities law). However, counsel for the Respondents submits that the Respondents currently have limited means. Further, counsel submits that Suman is currently unemployed and Rahman is unable to work outside of the home. Rahman testified at the hearing on the merits that the only income she earned was through her day-trading.

[45] Given the seriousness of the Respondents' misconduct and the lack of evidence as to the Respondents' financial resources, we do not consider the Respondents' ability to pay as a significant factor in determining the appropriate monetary sanctions or costs.

(h) The Relevance of the U.S. Judgment in Determining the Appropriate Order for Disgorgement and Administrative Penalty

[46] Staff did not seek an order for disgorgement against Suman given the order for disgorgement made under the U.S. Judgment. That order is for the full amount of the illegal profits made by the Respondents from the trading that was the subject matter of this proceeding.

[47] Further, a civil penalty of $2.0 million (USD) was imposed under the U.S. Judgment against Suman and a civil penalty of $1.0 million (USD) was imposed on Rahman. But for the civil penalty against Suman, Staff advised us that they would have sought the maximum administrative penalty of $1.0 million available under clause 9 of subsection 127(1) of the Act.

[48] Viewed in the context of the U.S. Judgment, Staff submits that a $250,000 administrative penalty against Suman is appropriate and sends a strong general and specific deterrent message.

(iii) Previous Sanctions Decisions

[49] Staff submitted a number of previous Commission decisions with respect to sanctions for our consideration. Staff submits that the following two decisions may provide guidance to us and support Staff's position that significant sanctions are appropriate and necessary in these circumstances. We note that both decisions are approvals of settlements in which a full hearing on the merits did not take place.

Re Thakur

[50] In *Re Thakur* (2009), 32 OSCB 4201, the Commission considered a settlement agreement relating to breaches of subsection 76(1) of the Act. Thakur had gained access to material undisclosed information of a reporting issuer through his sister, who was a technology infrastructure analyst at the reporting issuer. Thakur purchased and sold securities of the reporting issuer, obtaining $642,056.29 in profit. The Commission ordered permanent trading and officer and director bans, disgorgement in the amount of $642,056.29, as well as an administrative penalty of $481,542.22.

Re Kuszper

[51] In *Re Kuszper* (2011), 36 OSCB 9257, the Commission considered settlement agreements relating to breaches of subsections 76(1) and 76(2) of the Act by a mother and her son. Helen Kuszper was an employee of a reporting issuer who had access to material undisclosed information as a result of her position. She tipped her son Paul Kuszper and they both purchased and sold options in securities of the reporting issuer, obtaining approximately $350,000 in profits and losses avoided. The Commission ordered against Helen Kuszper, permanent trading and officer and director bans, disgorgement in the amount of $173,080, as well as an administrative penalty of $361,160, and against Paul Kuszper, a 15-year trading and director and officer ban, disgorgement in the amount of $148,692, and an administrative penalty of $340,530.

(iv) Trading and Other Bans

[52] Staff submits that it would be appropriate for us to order that Suman cease trading in and acquiring securities permanently and that Rahman cease trading for a period of five years and thereafter until payment of the costs awarded against her. In addition, Staff requests an order against each Respondent prohibiting them permanently from being an officer or director of a reporting issuer.

[53] In all of the circumstances, we have concluded that it is in the public interest to make the following orders (on the terms requested by Staff):

Suman

(a) an order pursuant to clause 2 of subsection 127(1) of the Act, that trading in any securities by Suman cease permanently;

(b) an order pursuant to clause 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by Suman cease permanently;

(c) an order pursuant to clause 8 of subsection 127(1) of the Act, that Suman be prohibited permanently from becoming or acting as an officer or director of a reporting issuer;

Rahman

(d) an order pursuant to clause 2 of subsection 127(1) of the Act, that trading in any securities by Rahman cease for a period of five (5) years, after which time Rahman may trade in securities only if the costs ordered against her below have been paid in full to the Commission;

(e) an order pursuant to clause 2.1 of subsection 127(1) of the Act, that the acquisition by Rahman of any securities cease for a period of five (5) years, after which time Rahman may acquire securities only if the costs ordered against her below have been paid in full to the Commission; and

(f) an order pursuant to clause 8 of subsection 127(1) of the Act, that Rahman be prohibited permanently from becoming or acting as an officer or director of a reporting issuer.

(v) Disgorgement

[54] Clause 10 of subsection 127(1) of the Act provides that a person or company that has not complied with Ontario securities law can be ordered to disgorge to the Commission "any amounts obtained as a result of the non-compliance". The disgorgement remedy is intended to ensure that respondents do not retain any financial benefit from their breaches of the Act and to provide specific and general deterrence.

[55] We have considered the following factors in determining whether to issue a disgorgement order against Suman:

(a) the amount obtained by Suman as a result of his non-compliance with the Act;

(b) the fact that the amount obtained as a result of his non-compliance is reasonably ascertainable;

(c) the seriousness of his misconduct and breach of the Act; and

(d) the deterrent effect of a disgorgement order on Suman and other market participants.

(See, for instance, *Re Limelight Entertainment Inc.* (2008), 31 OSCB 12030 at para. 52)

[56] The U.S. Judgment requires that the Respondents jointly and severally disgorge $1,039,440 (USD) for the trading that was also the subject matter of this proceeding.

[57] In the circumstances, we will order Suman to disgorge $954,938.07. That amount represents the total amount in Canadian dollars that we determined in the Merits Decision was obtained by Suman as a result of his non-compliance with the Act. Because Rahman was not found to have contravened the Act, we have no authority to order disgorgement against her. It would not be fair or appropriate, however, for Suman to have to pay as disgorgement substantially the same amount twice for the same misconduct. Therefore, we order that any amounts paid by Suman or Rahman to satisfy the disgorgement ordered under the U.S. Judgment shall be credited against the disgorgement order we make. Further, so long as the SEC is taking reasonable steps to obtain payment of disgorgement under the U.S. Judgment, there is no need for Staff to attempt to obtain payment of our disgorgement order. This recognises the fact that the improper trading profits obtained by the Respondents came from trading in U.S. capital markets in the securities of a U.S. public company. Notwithstanding, we believe that it is appropriate that we impose a disgorgement order against Suman (even though such an order was not requested by Staff) that can be directly enforced in this jurisdiction if doing so would be efficacious. We understand, however, that the Respondents are no longer residents of Ontario.

(vi) Administrative Penalty

[58] In our view, it is appropriate to impose a substantial administrative penalty against Suman in addition to our disgorgement order. We have accepted the submissions made by Staff and the Respondents as to the appropriate amount of the administrative penalty.

[59] In imposing the following administrative penalty, we have taken into account that the $2.0 million (USD) civil penalty imposed on Suman under the U.S. Judgment is approximately two times the trading profits from his illegal conduct. We also note that a civil penalty of $1.0 million (USD) was ordered against Rahman. That means that the aggregate amount of the civil penalties ordered against the Respondents under the U.S. Judgment are approximately three times the amount of their trading profits. Those are very substantial sanctions for the same misconduct that was the subject matter of this proceeding.

[60] We will order that an administrative penalty of $250,000 be paid by Suman to the Commission. He committed a very serious breach of the Act, he violated his position of trust as an employee of MDS, and he obtained a very substantial financial benefit from his breach of the Act. In our view, a substantial administrative penalty in addition to the monetary penalties imposed under the U.S. Judgment is appropriate and necessary in the circumstances.

VII. COSTS

[61] Section 127.1 of the Act gives the Commission discretion to order a person or company to pay the costs of an investigation and a hearing if the Commission is satisfied that the person or company has not complied with the Act or has not acted in the public interest. We held in the Merits Decision that Suman contravened subsection 76(2) of the Act and that the Respondents have not acted in the public interest.

[62] Staff seeks costs of $150,000 from Suman and of $100,000 from Rahman.

[63] Accordingly, Staff seeks an order for an aggregate payment by the Respondents of $250,000 of the costs of the investigation and of the hearing in this matter, including disbursements. Staff has submitted a bill of costs supporting that amount. Staff submits that they have used a reasonable and conservative approach in determining the amount of the requested costs (see *Ochnik (Re)* (2006), 29 OSCB 5917 at paras. 16, 18-19). Staff submits that the costs requested are only a portion of the total costs of $517,373.48 incurred by Staff in the investigation and the hearing of this matter.

[64] The bill of costs submitted by Staff reflects time spent investigating and litigating this matter, and includes copies of weekly timesheets supporting the hourly figures claimed.

[65] Staff submits that the aggregate amount of costs sought (of $250,000) reflects more than a 50% discount of the time spent by two senior professionals at the Commission, as well as a discount of a large disbursement. Staff submits that the large amount of costs incurred in this matter are justified because this proceeding involved a fully contested hearing on the merits over 19 hearing days and included complex expert evidence and several motions brought by the Respondents.

[66] In the circumstances, we order that costs in the amount of $250,000 shall be paid by the Respondents on a joint and several basis. We believe that a joint and several order for costs is appropriate given that both of the Respondents were actively involved in the misconduct that was the subject matter of this proceeding, both traded in the Molecular Securities and both participated actively in the hearing on the merits. As noted above, Rahman has agreed to sell the securities in her trading account and to apply the proceeds against our costs award.

VIII. CONCLUSION

[67] For the reasons discussed above, we have concluded that the sanctions we impose above are proportionate to the respective conduct and culpability of each of the Respondents in the circumstances and are in the public interest. We will issue a sanctions and costs order substantially in the form attached as Schedule "A" to these reasons.

Dated at Toronto, this 22nd day of August, 2012.

"James E. A. Turner"	*"Paulette L. Kennedy"*
James E. A. Turner	Paulette L. Kennedy

Schedule "A"

Ontario Securities Commission | Commission des valeurs mobilières de l'Ontario | P.O. Box 55, 19th Floor 20 Queen Street West Toronto ON M5H 3S8 | CP 55, 19e étage 20, rue queen ouest Toronto ON M5H 3S8

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

-AND-

IN THE MATTER OF SHANE SUMAN
AND MONIE RAHMAN

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

WHEREAS on July 24, 2007, a Statement of Allegations and a Notice of Hearing were issued pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") in the matter of Shane Suman ("**Suman**") and Monie Rahman ("**Rahman**") (collectively, the "**Respondents**");

AND WHEREAS the Commission conducted a hearing on the merits in this matter; and issued its Reasons and Decision on the merits on March 19, 2012 (the "**Merits Decision**");

AND WHEREAS the Commission concluded in the Merits Decision that Suman contravened Ontario securities law and that Suman and Rahman acted contrary to the public interest;

AND WHEREAS the Commission conducted a hearing with respect to the sanctions and costs to be imposed in this matter on July 16, 2012;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

(a) pursuant to clause 2 of subsection 127(1) of the Act, Suman shall cease trading in any securities permanently;

(b) pursuant to clause 2 of subsection 127(1) of the Act, Rahman shall cease trading in any securities for a period of five years from the date of this order, after which she may trade in securities only if the costs awarded against her jointly and severally with Suman have been paid in full to the Commission;

(c) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Suman is prohibited permanently;

(d) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Rahman is prohibited for a period of five years from the date of this order, after which she may acquire securities only if the costs awarded against her jointly and severally with Suman have been paid in full to the Commission;

(e) pursuant to clause 8 of subsection 127(1) of the Act, each of the Respondents shall be prohibited permanently from becoming or acting as a director or officer of any reporting issuer;

(f) pursuant to clause 9 of subsection 127(1) of the Act, Suman shall pay an administrative penalty of $250,000 to the Commission, such amount to be allocated to or for the benefit of third parties;

(g) pursuant to clause 10 of subsection 127(1) of the Act, Suman shall disgorge $954,938.07 to the Commission, such amount to be allocated to or for the benefit of third parties; and

(h) pursuant to section 127.1 of the Act, Suman and Rahman shall jointly and severally pay costs of $250,000 to the Commission.

Dated at Toronto, Ontario this 22nd day of August, 2012.

"James E. A. Turner"

James E. A. Turner

"Paulette L. Kennedy"

Paulette L. Kennedy