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 SIMPLY WEALTH FINANCIAL GROUP INC.,
NAIDA ALLARDE, BERNARDO GIANGROSSO,
K&S GLOBAL WEALTH CREATIVE STRATEGIES INC., KEVIN PERSAUD,
MAXINE LOBBAN and WAYNE LOBBAN

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

Hearing:	November 27, 2012 December 5, 2012	
Decision:	January 9, 2013	
Panel:	James D. Carnwath, Q.C.	- Commissioner and Chair of the Panel
Appearances:	Christie Johnson	- For Staff of the Commission
	Peter Carey	- For Kevin Persaud
	Naida Allarde	- Self-represented
	Bernardo Giangrosso	- Self-represented
	Maxine Lobban	- Self-represented
	Wayne Lobban	- Self-represented
	K&S Global Wealth Creative Strategies Inc.	- No one appeared
	Simply Wealth Financial Group Inc.	- No one appeared

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I. OVERVIEW

[1] This matter involved a Ponzi scheme conceived in the United States, operating as Gold-Quest International ("**Gold-Quest**"). In the period from June 2006 to June 2008 (the "**Material Time**"), Ontario residents were persuaded to invest hundreds of thousands of dollars in a scheme whereby their money would be placed in foreign exchange trading ("**forex**"). Gold-Quest promised an annual return of 87.5%. Investors who introduced new investors to Gold-Quest were handsomely rewarded.

[2] Ontario residents invested in Gold-Quest as a result of promotional activities of Naida Allarde, Bernardo Giangrosso, Kevin Persaud, Maxine Lobban and Wayne Lobban (the "**Individual Respondents**") and their respective companies, Simply Wealth Financial Group Inc. ("**Simply Wealth**") and K&S Global Wealth Creative Strategies Inc. ("**K&S**") (the "**Corporate Respondents**") contrary to various sections of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Act***").

[3] In my decision, dated June 21, 2012, following a hearing on the merits of the Ontario Securities Commission (the "**Commission**"), I found that:

> (i) Simply Wealth, Naida Allarde, and Bernardo Giangrosso (collectively, the "**Simply Wealth Respondents**") engaged in conduct contrary to the public interest and breached the provisions of the *Act* in the following ways:
>
> > (a) they traded in securities without registration contrary to section 25 of the *Act*;
> >
> > (b) they engaged in an illegal distribution of securities contrary to section 53 of the *Act*; and
> >
> > (c) as directors of Simply Wealth, Naida Allarde and Bernardo Giangrosso authorized, permitted or acquiesced in breaches of sections 25 and 53 of the *Act* by Simply Wealth, contrary to s. 129.2 of the *Act*.
>
> (ii) K&S and Kevin Persaud (collectively, the "**K&S Respondents**") engaged in conduct contrary to the public interest and breached the provisions of the *Act* in the following ways:
>
> > (a) they traded in securities without registration contrary to section 25 of the *Act*;
> >
> > (b) they engaged in an illegal distribution of securities contrary to section 53 of the *Act*,
> >
> > (c) as a director of K&S, Kevin Persaud authorized, permitted or acquiesced in breaches of sections 25 and 53 of the *Act* by K&S, contrary to section 129.2 of the *Act*.

(iii) Maxine Lobban and Wayne Lobban (collectively, the "**Lobban Respondents**") engaged in conduct contrary to the public interest and breached the provisions of the *Act* in the following ways:

(a) they traded in securities without registration contrary to section 25 of the *Act*; and

(b) they engaged in an illegal distribution of securities contrary to section 53 of the *Act*.

(*Re Simply Wealth Financial Group Inc.* (2012), 35 O.S.C.B. 6007 (the "**Merits Decision**") at paras. 63-65).

[4] I further accepted that all the respondents promoted investments in Gold-Quest and received commissions from Gold-Quest as follows:

RESPONDENT	TOTAL INVESTED	COMMISSION REALIZED
Simply Wealth Respondents	$958,738.73 (USD)	$215,790.00 (USD)
K&S Respondents	$254,007.04 (USD)	$90,000 (USD)
Lobban Respondents	$187,997.88 (USD)	$84,381.50 (CDN) $36,046.00 (USD)

(Merits Decision, above at paras. 20-21)

II. STAFF SUBMISSIONS ON SANCTIONS

[5] Staff of the Commission ("**Staff**") submit that the following sanctions are appropriate and in the public interest, given the findings set out in the Decision:

(A) The Corporate Respondents

- an order that each cease trading in and acquiring in securities permanently;
- an order that any exemptions contained in Ontario securities law do not apply to either permanently;
- an order making Simply Wealth, jointly and severally liable, together with Naida Allarde and Bernardo Giangrosso, to disgorge to the Commission $215,790.00 obtained as a result of its non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*;
- an order making K&S, jointly and severally liable, together with Kevin Persaud, to disgorge to the Commission $90,000.00 obtained as a result of its non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*; and

- an order requiring payment by K&S on a joint and several basis, together with Kevin Persaud, of $11,121.25 for costs incurred in the hearing of this matter.

(B) The Individual Respondents

- an order that each Individual Respondent cease trading in and acquiring securities for a period of 15 years with the exception that, after satisfying all monetary orders, each be permitted to trade securities for the account of a registered retirement savings plan in their name as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended (the "***Income Tax Act***");

- an order that any exemptions contained in Ontario securities law do not apply to each Individual Respondent for a period of 15 years except as required to make trades or acquire securities in accordance with the exception provided above;

- an order that each Individual Respondent be reprimanded;

- an order that each Individual Respondent resign all positions held as a director or officer of any issuer, registrant or investment fund manager;

- an order that each Individual Respondent is permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;

- an order requiring each Individual Respondent to pay an administrative penalty of $75,000, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*;

- an order making Naida Allarde, Bernardo Giangrosso and Simply Wealth jointly and severally liable to disgorge to the Commission $215,790.00 obtained as a result of their non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*;

- an order making Maxine Lobban and Wayne Lobban jointly and severally liable to disgorge to the Commission $120,427.50 obtained as a result of their non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*,

- an order making Kevin Persaud and K&S jointly and severally liable to disgorge to the Commission $90,000.00 obtained as a result of their non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties, pursuant to subsection 3.4(2)(b) of the *Act*; and

- an order requiring payment by Kevin Persaud, jointly and severally with K&S, of $11,121.25 for costs incurred in the hearing of this matter.

III. RESPONDENTS' SUBMISSIONS ON SANCTIONS

(a) Bernardo Giangrosso

[6] Mr. Giangrosso began by stating that he and Ms. Allarde had no realisation of what was happening in Gold-Quest and what was going to happen. After hearing the description of Gold-Quest's success, they right away thought about their relatives and the people they went to church with. Their intention was to help people and not to harm people.

[7] Mr. Giangrosso said he and Ms. Allarde had no idea how they would pay the disgorgement amount and penalty sought by Staff. He pointed out that they never forced anybody to invest in Gold-Quest, they just shared information. He concluded by saying that they don't even own their own car and live in rented premises. Mr. Giangrosso said he would like to be able to have an opportunity to go into business and not be forbidden to do so by a lifetime ban.

(b) Naida Allarde

[8] Ms. Allarde stated she was an insurance agent when she met the people from Gold-Quest in a seminar. She joined with her husband in submitting that there was no intention to hurt anybody and they had no idea that people were going to get hurt. She felt it was unfair that they were charged and were being asked to pay since their name was already tainted. Ms. Allarde stated she is not able to renew her insurance agent license because there is no liability insurance available that would cover her errors and omissions, as a result of the allegations against her. She was particularly concerned about the 15 years cease trading order, submitting that it was enough that their name was tainted plus the money that they would be ordered to pay.

(c) Maxine Lobban

[9] Ms. Lobban began by stating that the events of the last four years have left her and Mr. Lobban financially embarrassed. They could not afford legal counsel. They never understood that they were involved in an illegal distribution of securities and trading without registration.

[10] Ms. Lobban told the panel that she and her husband came to Canada for Jamaica in late 1999. They both became registered with the Commission to sell RESPs. The reality that they were involved in a Ponzi scheme shocked the couple. They were devastated to know that they deprived not only themselves, but people they loved, of monies they worked so hard for. The postings on the World Wide Web have caused irreparable damage to their character, their careers and their ability to earn.

[11] Ms. Lobban described how she met Kevin Persaud's father, who became the couple's mentor. She described the seminar where she met the proponents of the Gold-Quest investment scheme. They learned there was no issue with regards to licensing as Gold-Quest's currency program fell under what was described as a family-and-friends exemption. Persuaded by the initial success of the program, the Lobban's invested more funds in Gold-Quest as well as recommending the program to other friends and fellow church members. Ms. Lobban concluded

by saying her intention was to present the couple's story because the other side of this story criminalized their character. The description of what they did in the statement of allegations was far removed from what Ms. Lobban described as how the couple represented themselves to the public in the last 20 years. She asked for leniency.

(d) Wayne Lobban

[12] Mr. Lobban told the panel he was licensed as an insurance broker and his background was in accounting before he came to Canada. He regrets very much that he and his wife have harmed people whom they really wanted to help. He states that their financial situation is grave, if not precarious. He understood from Staff that their financial situation should not be a mitigating factor in the sanctions to be imposed, but hopes that the panel keeps it in mind when arriving at a decision. In closing, he repeated his regret for the harm done to others.

(e) Kevin Persaud

[13] Kevin Persaud was represented at the sanctions hearing by his counsel, Mr. Peter Carey, who called Mr. Persaud to testify.

[14] Mr. Persaud told the panel he was 19 when he met the principals of Gold-Quest. He had completed high school and had done a year and a half at the University of Ontario Institute of Technology. He then dropped out and began working with his father who had a number of financial interests. After his connection with Gold-Quest launched and before it crashed, Mr. Persaud was in the second phase of the Canadian Securities Course and he was also studying to get a Certified Financial Planner designation.

[15] After the release of allegations in this matter and given the possibility of being banned from trading securities, he stopped both courses because of their cost.

[16] Currently, Mr. Persaud is attending Ryerson University in Business Management and Economics. He is living at his mother's home with his fiancée and son. He works at Costco on a part-time basis and makes approximately $18,000 a year. He told the panel that the $90,000 he received from Gold-Quest, after taxes, was placed in another investment where he lost the entire amount. He completed his testimony by saying how much he regretted his participation in Gold-Quest, particularly having signed up his mother who lost $20,000.

[17] In cross-examination Staff counsel asked Mr. Persaud if he had invested $20,000 in Land Banc of Canada; he replied that that sum was his father's money. Mr. Persaud was also asked if he had invested approximately $150,000 in Horizon FX. Mr. Persaud confirmed that he had done so with his personal funds a month or two before Gold-Quest. After his involvement in Gold-Quest, Mr. Persaud invested $50,000 in Winsome Trust. Staff put to Mr. Persaud that by the time he was 22 years old he had made investments in excess of $300,000 and Mr. Persaud agreed. Mr. Persaud confirmed that it was his intention to pay to the Commission the sum of $90,000 representing what he earned by way of commission from Gold-Quest.

[18] In re-examination Mr. Carey produced a bank draft for $15,000 in partial payment of the $90,000 in earned commissions from Gold-Quest.

[19] In submissions on behalf of Mr. Persaud, his counsel acknowledged that there should be an order for disgorgement of $90,000.

[20] Mr. Carey submits that the appropriate time period for a ban on trading securities would be one year. Mr. Carey noted that Mr. Persaud was not the mastermind of the Gold-Quest scheme, he was only 19 years old at the time and has shown genuine remorse. Mr. Carey points out that the hearing is already had an effect on Mr. Persaud's livelihood. The more sanctions that are added to his record, the more difficult his road becomes for him to successfully pursue a career in capital markets. Mr. Carey stressed that Mr. Persaud's involvement with Gold-Quest was very brief, what he described as "one-time affair." He added that the evidence at the hearing on the merits was to the effect that when Mr. Persaud became aware there was some doubt about Gold-Quest, he immediately told everyone.

[21] Mr. Carey submitted further that there should be an immediate carve-out to permit Mr. Persaud to trade for an RRSP, a TFSA and an RESP.

[22] On the matter of costs, Mr. Carey stressed that Mr. Persaud had been completely cooperative with the Commission. An Agreed Statement of Facts substantially shortened the hearing. The only new evidence that was introduced was the evidence of Mr. Persaud in support of his view that he was not liable for furthering illegal trade. Mr. Carey says that Mr. Persaud should not be penalized for attempting to get the facts out that would support him in either a finding of liability or with respect to an appropriate sanction.

[23] Finally, Mr. Carey submits that Mr. Persaud should not receive an administrative penalty of $75,000 since that sort of penalty is directed at specifically deterring Mr. Persaud and generally deterring others of a like mind, which was unnecessary in this case. Mr. Carey also objected to a permanent prohibition of Mr. Persaud becoming or acting as a director or officer of any issuer because he is now 26 years old and starting his career.

IV. THE APPLICABLE LAW

(A) Approach to the Imposition of Sanctions

[24] In making an order in the public interest under section 127 of the *Act*, the Commission's jurisdiction should be exercised in a protective and preventative manner. The Commission's purpose in making such orders is to "protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets" (*Re Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at para. 43, citing *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at pp. 4-5 (Q.L.)).

[25] The Commission must ensure that the sanctions imposed in each case are proportionate to the circumstances and conduct of each of the particular respondents. Some of the factors the Commission has considered in determining appropriate sanctions include:

(a) the seriousness of the allegations;

(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 of the seriousness of the improprieties;

(e) whether or not the sanctions imposed may serve to deter not only those involved in the case being considered, but any like-minded people from engaging in similar abuses of the capital markets;

(f) any mitigating factors;

(g) the size of any profit made or loss avoided from the illegal conduct;

(h) the size of any financial sanctions or voluntary payment when considering other factors;

(i) the effect any sanction might have on the livelihood of a respondent;

(i) the restraint any sanctions may have on the ability of a respondent to participate without check in the capital markets;

(k) the reputation and prestige of the respondent;

(1) the shame or financial pain that any sanction would reasonably cause to the respondent; and

(m) the remorse of the respondent.

(*Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at paras. 23-26; *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 at paras. 18-19 and 26).

[26] The Commission may also consider general and specific deterrence in crafting appropriate sanctions. The weight given to general deterrence will vary from case to case and is a matter within the discretion of the Commission (*Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 at paras. 60 and 64; *Re Momentas Corp.* (2007), 30 O.S.C.B. 6475 at para. 51).

(B) Application of Factors

[27] I have considered the following factors set out below in arriving at the appropriate sanctions to be applied in this matter.

(a) Seriousness of the Conduct

(i) Unregistered Trading

[28] In *Limelight*, the panel found that:

> The requirement that an individual be registered in order to trade in securities is an essential element of the regulatory framework with the purpose of achieving the regulatory objectives of the Act. Registration serves an important

> gatekeeping mechanism ensuring that only properly qualified and suitable individuals are permitted to be registrants and to trade with or on behalf of the public. Through the registration process, the Commission attempts to ensure that those who trade in securities meet the applicable proficiency requirements, are of good character, satisfy the appropriate ethical standards and comply with the Act.
>
> (*Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 1727 ("***Limelight***") at para. 135)

[29] Staff submits that the nature of the unregistered trading conducted by the respondents reflects the seriousness of the respondents' conduct. I agree. However, "the nature of the unregistered trading" was such as to call for lighter sanctions than proposed by Staff. Staff did not develop how the "nature of the unregistered trading" should lead to a conclusion that the acts of the respondents require the imposition of such severe sanctions under these circumstances.

(ii) Illegal Distribution

[30] The prospectus requirement plays an essential role in the protection of investors as the filing of a prospectus with the Commission is fundamental to the protection of the investing public who are contemplating the purchase of securities. The prospectus requirement therefore ensures that prospective investors have sufficient information to ascertain the risk level of their investment and to make informed investment decisions (*Re M P Global Financial Ltd*. (2011), 34 O.S.C.B. 8897 at para. 117, citing *Jones v. F.H. Deacon Hodgson Inc.* (1986), 9 O.S.C.B. 5579; *Re Fist Global Ventures S. A.* (2007), 30 O.S.C.B. 10473 at para. 145).

[31] Staff submits that in failing to provide investors and potential investors with a prospectus and the information therein contained, the respondents deprived investors of a critical source of information about the nature of the investments being made, the risk involved and a thorough explanation of where investor funds would be directed. My comments made in paragraph [29] apply equally to this submission of Staff.

(b) Capital Markets Experience

[32] None of the respondents had experience in capital markets.

[33] All of the respondents profited from their illegal conduct in the form of significant commissions paid by Gold-Quest. As will be developed further in these reasons, that monetary benefit received by the respective respondents must be disgorged.

(c) Awareness of the seriousness of their conduct

[34] All the Individual Respondents demonstrated at the sanctions hearing that they recognized the seriousness of their illegal activities.

(d) Mitigating Factors

[35] All the Individual Respondents sincerely believed they were not doing anything illegal. All the respondents have testified that they believed their activities were not in contravention of the *Act* because they accepted what they were told by the principals at Gold-Quest – that there was a "friends-and-family" exemption from securities regulation. Staff made no submissions that would contradict their evidence. I accept that the respondents were duped by the proponents of the investment scheme.

[36] This conclusion distinguishes the respondents from true fraudsters who embark on a Ponzi scheme, such as the one in this matter, in the full knowledge their activities contravene Ontario securities law. While it must be remembered that a contravention of unregistered trading or illegal distribution does not require a guilty mind nor an intentional breach of the *Act*, nevertheless the absence of any intention to contravene the *Act* can and should be taken into account in considering the appropriate sanctions.

[37] Further, the Simply Wealth Respondents and the Lobban Respondents entered into Agreed Statements of Facts and admitted responsibility for their actions. In doing so, they recognized their misconduct and obviated the need for a full hearing on the merits.

[38] The K&S Respondents also entered into an Agreed Statement of Facts, preserving the rights to make submissions on whether the offences of illegal distribution and failure to file a prospectus had been made out. This reduced the time that would otherwise have spent on the hearing on the merits.

(e) Voluntary Payment

[39] Kevin Persaud made a voluntary acknowledgement that disgorgement should be ordered in the amount of $90,000 and, as reported above, made a payment of $15,000 towards that amount during the sanctions hearing.

(f) Remorse

[40] Mr. Giangrosso, Ms. Allarde and Mr. and Mrs. Lobban all spoke of the remorse they felt over the pain and loss suffered by their families and friends who invested in Gold-Quest through their efforts. They spoke eloquently having come to Canada from abroad and having made their way as newcomers with considerable success. I concluded their distress flowed more from the damage done to their families and friends than that done to themselves. Mr. Persaud's voluntary payment is an indication of his remorse.

(g) Specific and General Deterrence

[41] Staff submits that the proposed sanctions are proportionate to the respondents' conduct and will serve as a specific deterrent. An order removing the respondents from the capital markets for a significant period of time, requiring disgorgement of all funds obtained as a result of their illegal conduct, and requiring the respondents to pay administrative penalties to the extent warranted will send a message to both the respondents and like-minded individuals that such conduct will result in meaningful sanctions by the Commission.

[42] I disagree with Staff's submission that the proposed sanctions "are proportionate to the respondent's conduct. As noted earlier in these reasons, the respondents were not the proponents of the investment scheme but were rather duped by the promoters of Gold-Quest to embark upon activity contrary to the *Act*. In the discussion that follows on specific sanctions, covering market bans, disgorgement, administrative penalty and costs, my findings will be based upon my view that the need for specific and general deterrence in this matter for all the respondents is at the low end of the scale.

[43] Staff's written submissions cited *Re White* (2010), 33 O.S.C.B. 8893 ("***White***"). In support of an administrative penalty of $75,000, the panel in *White* found that the respondent, White, was directly involved in creating the investment scheme; that White controlled the company, which ran an investment club and charged membership fees to investors; he promoted the investment scheme and his videos and on his company website; and he forwarded investment funds to accounts controlled by another respondent, Qureshi. The panel found that Qureshi was directly involved in creating the investment scheme; gave presentations at White's company meetings held to solicit investors; was directly involved in the investment programs finances; played a predominant role in the actual investment of the funds; and carried out the trading of investor funds thereby losing USD $500,000 in forex (paras. 52 and 53). This conduct was, I find, more serious than the activity of the respondents in this matter.

[44] In support of its submission on administrative penalties, Staff cited *Re Sabourin* (2010), 33 O.S.C.B. 5299 ("***Sabourin***"). In *Sabourin* the panel imposed significant administrative penalties ranging from $100,000 to $150,000 on four respondents whom the panel found, as former registrants, knew or ought to have known they were selling securities in breach of the *Act* (paras. 78-84). That is not the case with the respondents in this matter. Some *Sabourin* respondents continued to sell investments after becoming aware that the Commission was investigating; others sold investments while still employed with a registrant and not entitled to do so.

(C) Market Bans

[45] Staff seek significant market bans of 15 years for each of the respondents. In support of the submission, Staff cites *White*, above. I have already drawn a distinction between the conduct of the respondents in *White* and the conduct of the respondents in this matter to demonstrate that the White respondents' contraventions of the *Act* were more egregious.

[46] Staff also cited *Re Ochnik* (2006), 29 O.S.C.B. 3929. Mr. Ochnik was described (para. 93) as having engaged in "misinformation and prevarication". He was also found to have engaged in "unfair, improper or fraudulent practices" (para. 109).

[47] In the absence of fraud on the part of the respondents, I find that an appropriate period for the imposition of market bans to be five years for each of the respondents. There will be a "carve-out" for personal trading to become active after full payment of any order for disgorgement, administrative penalties and costs, for the Individual Respondents.

(D) Disgorgement

[48] Applying the principles in *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 ("***Limelight Sanctions***") at para. 52, I accept Staff's submissions that the respondents should disgorge the entire amount they realised by way of commissions from the Gold-Quest scheme, in the amounts identified in paragraph [4] of these reasons.

(E) Administrative Penalty

[49] The Commission has held that an administrative penalty should be of a magnitude sufficient to ensure effective specific and general deterrence. Factors to be considered in determining an appropriate administrative penalty include the following: the scope and seriousness of a respondent's misconduct; whether there were multiple and/or repeated breaches of the *Act*; whether the respondent realized any profit as a result of his or her misconduct; the amount of money raised from investors; the harm caused to investors; and the level if administrative penalties imposed in other cases (*Re Rowan* (2010), 33 O.S.C.B. 91 at para. 67; *Limelight Sanctions*, above at paras. 67 and 71). I find it appropriate that each of the Individual Respondents pay an administrative penalty of $15,000.

[50] The rationale for specific deterrence is that the imposition of a penalty will cause the wrongdoer to think twice before reoffending. I weigh the possibility of these respondents reoffending to be on the low side, given the disgorgement ordered, coupled with the loss of reputation described in their testimony.

[51] The rationale for general deterrence is that the imposition of a penalty will dissuade other persons of a like mind as that of the respondents from committing similar illegal acts. When the actions of the respondents were, as I have concluded, based on their perception that they were within the law, it is difficult to appreciate how other like-minded persons could be dissuaded from similar activity. All that can be said is that a penalty will serve as a warning to proceed carefully, particularly where a proposal can be described as "too good to be true." Almost always, such a proposal is neither good nor true.

[52] I find it appropriate that each of the Individual Respondents pay an administrative penalty of $15,000.

(F) COSTS

[53] I accept Staff's conservative estimate of costs, supported by a Bill of Costs, time summary and affidavit. Staff sought costs only for the merits hearing, the majority of which was taken up with Mr. Persaud's defence to the allegations. A costs order is not intended to penalize the respondent but to allow Staff to recuperate costs. The costs order is limited to Mr. Persaud since K&S was not represented in this matter.

V. CONCLUSION

[54] I find that it is in the public interest to make the following orders against the respondents pursuant to subsections 127(1) and 127.1 of the *Act*:

1. With respect to Simply Wealth:

    (a) pursuant to clause 2 of subsection 127(1) of the *Act*, Simply Wealth is prohibited from trading in securities for five years;

    (b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Simply Wealth is prohibited from acquiring securities for five years;

    (c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Simply Wealth for five years; and

    (d) pursuant to clause 10 of subsection 127(1) of the *Act*, Simply Wealth shall jointly and severally together with Ms. Allarde and Mr. Giangrosso, disgorge to the Commission $215,790 obtained as a result of its non-compliance with Ontario securities law, which shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

2. With respect to K&S:

    (a) pursuant to clause 2 of subsection 127(1) of the *Act*, K&S is prohibited from trading in securities for five years;

    (b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, K&S is prohibited from acquiring securities for five years;

    (c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to K&S for five years; and

    (d) pursuant to clause 10 of subsection 127(1) of the *Act*, K&S shall, jointly and severally together with Mr. Persaud, disgorge to the Commission $90,000 obtained as a result of its non-compliance with Ontario securities law, which shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

3. With respect to Naida Allarde:

    (a) pursuant to clause 2 of subsection 127(1) of the *Act*, Ms. Allarde is prohibited from trading in securities for a period of five years, except that, once Ms. Allarde has fully satisfied the terms of subparagraphs 3(g) and (h) below, she may trade in securities for the account of any registered retirement savings plans and/or any registered retirement income funds as defined in the *Income Tax Act* ("**RRSPs**"*)* in which she and/or her spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(ii) she does not own legally or beneficially, in the aggregate or together with her spouse, more than one percent of the outstanding securities of the class or series of the class in question; and

(iii) she carries out any permitted trading through a registered dealer, which dealer must be given a copy of this order, and through accounts opened in her name only and must close any trading accounts that are not in her name only;

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Ms. Allarde is prohibited from acquiring securities for a period of five years, except that, once Ms. Allarde has fully satisfied the terms of subparagraphs 3(g) and (h), below, she may trade securities for the account of any RRSPs in which she and/or her spouse have sole legal and beneficial ownership, on and subject to the conditions referred to in subparagraphs 3(a)(i) to (iii) of this order;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Ms. Allarde for a period of five years, except as necessary to permit the trading authorized under subparagraphs 3(a) or (b) of this order;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Ms. Allarde is reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, Ms. Allarde is ordered to resign any positions she holds as a director or officer of any issuer, registrant or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, Ms. Allarde is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for five years;

(g) pursuant to clause 9 of subsection 127(1) of the *Act*, Ms. Allarde shall pay to the Commission an administrative penalty of $15,000 as a result of her non-compliance with Ontario securities law;

(h) pursuant to clause 10 of subsection 127(1) of the *Act*, Ms. Allarde shall, jointly and severally together with Simply Wealth and Mr. Giangrosso, disgorge to the Commission $215,790.00 obtained as a result of her non-compliance with Ontario securities law; and

(i) the amounts referred to in each of subparagraphs 3(g) and (h) of this order shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

4. With respect to Bernardo Giangrosso:

(a) pursuant to clause 2 of subsection 127(1) of the *Act*, Mr. Giangrosso is prohibited from trading in securities for a period of five years, except that, once Mr. Giangrosso has fully satisfied the terms of subparagraphs 4(g) and (h), below, he may trade securities for the account of any RRSPs in which he and/or his spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(ii) he does not own legally or beneficially, in the aggregate or together with his spouse, more than one percent of the outstanding securities of the class or series of the class in question; and

(iii) he carries out any permitted trading through a registered dealer, which dealer must be given a copy of this order, and through accounts opened in his name only and must close any trading accounts that are not in his name only;

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Mr. Giangrosso is prohibited from acquiring securities for a period of five years, except that, once Mr. Giangrosso has fully satisfied the terms of subparagraphs 4(g) and (h), below, he may trade securities for the account of any RRSPs in which he and/or his spouse have sole legal and beneficial ownership, on and subject to the conditions referred to in subparagraphs 4(a)(i) to (iii) of this order;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Mr. Giangrosso for a period of five years, except as necessary to permit the trading authorized under subparagraphs 4(a) or (b) of this order;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Mr. Giangrosso is reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, Mr. Giangrosso is ordered to resign any positions he holds as a director or officer of any issuer, registrant or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, Mr. Giangrosso is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for five years;

(g) pursuant to clause 9 of subsection 127(1) of the *Act*, Mr. Giangrosso shall pay to the Commission an administrative penalty of $15,000 as a result of his non-compliance with Ontario securities law;

(h) pursuant to clause 10 of subsection 127(1) of the *Act*, Mr. Giangrosso shall, jointly and severally together with Simply Wealth and Ms. Allarde, disgorge to the Commission $215,790.00 obtained as a result of his non-compliance with Ontario securities law; and

(i) the amounts referred to in each of subparagraphs 4(g) and (h) of this order shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

5. With respect to Kevin Persaud:

(a) pursuant to clause 2 of subsection 127(1) of the *Act*, Mr. Persaud is prohibited from trading in securities for a period of five years, except that, once Mr. Persaud has fully satisfied the terms of subparagraphs 5(g), (h) and (i), below, he may trade securities for the account of any RRSPs, registered education savings plan or tax-free savings account as defined in the *Income Tax Act* in which he and/or his spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(ii) he does not own legally or beneficially, in the aggregate or together with his spouse, more than one percent of the outstanding securities of the class or series of the class in question; and

(iii) he carries out any permitted trading through a registered dealer, which dealer must be given a copy of this order, and through accounts opened in his name only and must close any trading accounts that are not in his name only;

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Mr. Persaud is prohibited from acquiring securities for a period of five years, except that, once Mr. Persaud has fully satisfied the terms of subparagraphs 5(g), (h) and (i), he may trade securities for the account of any RRSPs in which he and/or his spouse have sole legal and beneficial ownership, on and subject to the conditions referred to in subparagraphs 5(a)(i) to (iii) of this order;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Mr. Persaud for a period of five years, except as necessary to permit the trading authorized under subparagraphs 5(a) or (b) of this order;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Mr. Persaud is reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, Mr. Persaud is ordered to resign any positions he holds as a director or officer of any issuer, registrant or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, Mr. Persaud is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for five years;

(g) pursuant to clause 9 of subsection 127(1) of the *Act*, Mr. Persaud shall pay to the Commission an administrative penalty of $15,000 as a result of his non-compliance with Ontario securities law;

(h) pursuant to clause 10 of subsection 127(1) of the *Act*, Mr. Persaud shall, jointly and severally together with K&S, disgorge to the Commission $90,000.00 obtained as a result of his non-compliance with Ontario securities law;

(i) pursuant to section 127.1 of the *Act*, Mr. Persaud shall pay costs incurred by the Commission in relation to the hearing of this matter in the amount of $11,121.25; and

(j) the amounts referred to in each of subparagraphs 5(g) and (h) of this order shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

6. With respect to Maxine Lobban:

(a) pursuant to clause 2 of subsection 127(1) of the *Act*, Ms. Lobban is prohibited from trading in securities for a period of five years, except that, once Ms. Lobban has fully satisfied the terms of subparagraphs 6(g) and (h), below, she may trade securities for the account of any RRSPs in which she and/or her spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(ii) she does not own legally or beneficially, in the aggregate or together with her spouse, more than one percent of the outstanding securities of the class or series of the class in question; and

(iii) she carries out any permitted trading through a registered dealer, which dealer must be given a copy of this order, and through accounts opened in her name only and must close any trading accounts that are not in her name only;

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Ms. Lobban is prohibited from acquiring securities for a period of five years, except that, once Ms. Lobban has fully satisfied the terms of subparagraphs 6(g) and (h), below, she may trade securities for the account of any RRSPs in which she and/or her spouse have sole legal and beneficial ownership, on and subject to the conditions referred to in subparagraphs 6(a)(i) to (iii) of this order;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Ms. Lobban for a period of five years, except as necessary to permit the trading authorized under subparagraphs 6(a) or (b) of this order;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Ms. Lobban is reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, Ms. Lobban is ordered to resign any positions she holds as a director or officer of any issuer, registrant or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, Ms. Lobban is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for five years;

(g) pursuant to clause 9 of subsection 127(1) of the *Act*, Ms. Lobban shall pay to the Commission an administrative penalty of $15,000 as a result of her non-compliance with Ontario securities law;

(h) pursuant to clause 10 of subsection 127(1) of the *Act*, Ms. Lobban shall, jointly and severally together with Wayne Lobban, disgorge to the Commission $120,427.50 obtained as a result of her non-compliance with Ontario securities law; and

(i) the amounts referred to in each of subparagraphs 6(g) and (h) of this order shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

7. With respect to Wayne Lobban:

(a) pursuant to clause 2 of subsection 127(1) of the *Act*, Mr. Lobban is prohibited from trading in securities for a period of five years, except that, once Mr. Lobban has fully satisfied the terms of subparagraphs 7(g) and (h), below, he may trade securities for the account of any RRSPs in which he and/or his spouse have sole legal and beneficial ownership, provided that:

(i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(ii) he does not own legally or beneficially, in the aggregate or together with his spouse, more than one percent of the outstanding securities of the class or series of the class in question; and

(iii) he carries out any permitted trading through a registered dealer, which dealer must be given a copy of this order, and through accounts opened in his name only and must close any trading accounts that are not in his name only);

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Mr. Lobban is prohibited from acquiring securities for a period of five years, except that, once Mr. Lobban has fully satisfied the terms of subparagraphs 7(g) and (h), he may trade securities for the account of any RRSPs in which he and/or his spouse have sole legal and beneficial ownership, on and subject to the conditions referred to in subparagraphs 7(a)(i) to (iii) of this order;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, exemptions in Ontario securities law do not apply to Mr. Lobban for a period of five years, except as necessary to permit the trading authorized under subparagraphs 7(a) or (b) of this order;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Mr. Lobban is reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, Mr. Lobban is ordered to resign any positions he holds as a director or officer of any issuer, registrant or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, Mr. Lobban is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for five years;

(g) pursuant to clause 9 of subsection 127(1) of the *Act*, Mr. Lobban shall pay to the Commission an administrative penalty of $15,000 as a result of his non-compliance with Ontario securities law;

(h) pursuant to clause 10 of subsection 127(1) of the *Act*, Mr. Lobban shall, jointly and severally together with Maxine Lobban, disgorge to the Commission $120,427.50 obtained as a result of his non-compliance with Ontario securities law; and

(i) the amounts referred to in each of subparagraphs 7(g) and (h) of this order shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the *Act*.

[55] I will issue a separate order giving effect to my decisions on sanctions and costs.

Dated this 9th day of January, 2013.

"James D. Carnwath"

James D. Carnwath, Q.C.