



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  
PETER SBARAGLIA**

**ORDER**

**WHEREAS** on February 24, 2011, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) in relation to a Statement of Allegations filed by Staff of the Commission (“Staff”) on February 24, 2011 with respect to Peter Sbaraglia (“Sbaraglia”);

**AND WHEREAS** on March 31, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to April 28, 2011;

**AND WHEREAS** on April 28, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to June 7, 2011;

**AND WHEREAS** on June 7, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to July 27, 2011;

**AND WHEREAS** on July 27, 2011, the Commission heard submissions from Staff and Sbaraglia and ordered that a pre-hearing conference in this matter take place on October 28, 2011;

**AND WHEREAS** on October 28, 2011, the Commission held a pre-hearing conference in this matter and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to November 25, 2011 on the consent of the parties;

**AND WHEREAS** on November 25, 2011, following a pre-hearing conference at which the Commission heard submissions from Staff and counsel for Sbaraglia, the Commission ordered that: Sbaraglia's motion regarding Staff's disclosure, if Sbaraglia determined to bring such a motion, be scheduled for January 24, 2012; the hearing on the merits commence on June 4, 2012 and continue until June 26, 2012, excluding June 5 and 19, 2012; and a pre-hearing conference be held on April 30, 2012;

**AND WHEREAS** on January 24, 2012, the Commission held a hearing with respect to a disclosure motion brought by Sbaraglia, which motion was dismissed by the Commission, and the Commission ordered that the minimum time requirements under subrule 4.3(1) and rule 4.5 of the Ontario Securities Commission *Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "Rules") be extended by an additional 10 days;

**AND WHEREAS** on April 30, 2012, the Commission held a hearing with respect to a motion brought by counsel for Sbaraglia seeking an adjournment of the hearing on the merits, which was opposed by Staff, and the Commission ordered that: the hearing on the merits originally scheduled to commence on June 4, 2012 will commence on October 22, 2012 and continue until November 14, 2012, inclusive, with the exception of October 23, 2012 and November 5 and 6, 2012, on a peremptory basis with respect to Sbaraglia; a pre-hearing conference be held on June 4, 2012; and the extension of the minimum time requirements under subrule 4.3(1) and rule 4.5 of the Rules ordered on January 24, 2012 be set aside;

**AND WHEREAS** on June 4, 2012, the Commission held a pre-hearing conference and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to July 4, 2012;

**AND WHEREAS** on July 4, 2012, the Commission held a pre-hearing conference and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to July 19, 2012;

**AND WHEREAS** on July 19, 2012, the Commission held a hearing with respect to a motion brought by counsel for Sbaraglia seeking an adjournment of the hearing on the merits, to which Staff consented;

**AND WHEREAS** counsel for Sbaraglia advised the Commission that, on October 2, 2012, the Court of Appeal will hear an appeal and cross-appeal of the decision of the Superior Court of Justice dated May 23, 2012 regarding Sbaraglia's motion to compel production by the Receiver of certain documents alleged by Sbaraglia to be relevant to this matter;

**AND WHEREAS** the Commission ordered that: the hearing on the merits scheduled to commence on October 22, 2012 will commence on March 18, 2013, on a peremptory basis with respect to Sbaraglia, and shall continue until April 5, 2013, inclusive, with the exception of March 26 and 29, 2013 and further continue on April 24 and 25, 2013; and a pre-hearing conference will be held on November 7, 2012;

**AND WHEREAS** on November 7, 2012, the Commission held a pre-hearing conference and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to December 12, 2012;

**AND WHEREAS** on December 12, 2012, the Commission held a pre-hearing conference in this matter and heard submissions from Staff and counsel for Sbaraglia;

**AND WHEREAS** counsel for Sbaraglia advised the Commission that Sbaraglia intended to request the issuance of summonses to a number of individuals, including the Receiver;

**AND WHEREAS** Staff requested that a hearing be scheduled at which time anyone to whom a summons was issued may bring a motion to have the issuance of the summons reviewed by the Commission in accordance with subrule 4.7(2) of the Rules;

**AND WHEREAS** counsel for Sbaraglia undertook to advise the parties to whom summonses were issued of the date of the hearing with respect to any motion to review the issuance of the summonses;

**AND WHEREAS** the Commission ordered that a hearing be held on January 9, 2013 for the purpose of considering any motion to review the issuance of the summonses in accordance with subrule 4.7(2) of the Rules;

**AND WHEREAS** on January 9, 2013, Staff, counsel for Sbaraglia, counsel for the Receiver and counsel for an individual to whom a summons had been issued appeared before the Commission and made submissions regarding the scheduling of motions to review the issuance of the summonses;

**AND WHEREAS** counsel for the Receiver advised the Commission that the Receiver intended to bring a motion to review the issuance of the summons to the Receiver;

**AND WHEREAS** counsel for Sbaraglia undertook to advise the parties to whom summonses have been issued of the date of the hearing with respect to any motion to review the issuance of the summonses;

**AND WHEREAS** on January 9, 2013, the Commission ordered that a hearing be held on February 8, 2013 at 10:00 a.m. for the purpose of considering a motion by the Receiver, if applicable, to review the issuance of the summons to the Receiver in accordance with subrule 4.7(2) of the Rules;

**AND WHEREAS** on January 9, 2013, the Commission further ordered that a hearing be held on February 8, 2013 at 10:00 a.m., following the hearing to which reference is made in the paragraph above, if applicable, and on such other date and time as agreed to by the parties and determined by the Office of the Secretary, for the purpose of considering a motion by any other party to whom a summons has been issued to review the issuance of a summons to such party in accordance with subrule 4.7(2) of the Rules;

**AND WHEREAS** the parties to the motion failed to comply with the time requirements for the filing of motion materials set out in Rule 3 of the Rules;

**AND WHEREAS** on February 6, 2013, the Commission ordered that the hearing for the purpose of considering a motion by the Receiver to review the issuance of the summons to the Receiver in accordance with subrule 4.7(2) of the Rules be adjourned to February 19, 2013 at 10:00 a.m.;

**AND WHEREAS** on February 6, 2013, the Commission further ordered that the hearing for the purpose of considering a motion by any other party to whom a summons has been issued to review the issuance of a summons to such party in accordance with subrule 4.7(2) of the Rules be adjourned to February 19, 2013 at 10:00 a.m., following the hearing to which reference is made in the paragraph above, and on such other date and time as agreed to by the parties and determined by the Office of the Secretary;

**AND WHEREAS** on February 7, 2013, counsel for Sbaraglia and counsel for the Receiver advised that they are not available on February 19, 2013 to attend the motion hearing but are available on February 27, 2013;

**IT IS ORDERED THAT:**

1. the hearing for the purpose of considering a motion by the Receiver to review the issuance of the summons to the Receiver in accordance with subrule 4.7(2) of the Rules is adjourned to February 27, 2013 at 10:00 a.m.; and
2. the hearing for the purpose of considering a motion by any other party to whom a summons has been issued to review the issuance of a summons to such party in accordance with subrule 4.7(2) of the Rules is adjourned to February 27, 2013 at 10:00 a.m., following the hearing to which reference is made in paragraph 1 above, and on such other date and time as agreed to by the parties and determined by the Office of the Secretary.

**DATED** at Toronto this 8<sup>th</sup> day of February, 2013.

*“Mary G. Condon”*

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Mary G. Condon