



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

(Rules 1.6(2), 4.3(1), 4.5(1) and 6.2 of the Ontario Securities Commission
Rules of Procedure (2012), 35 O.S.C.B. 10009)

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 preemptory 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 would 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 ("Summons Motion");

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 Summons Motion;

AND WHEREAS the Commission ordered that a hearing be held on January 9, 2013 for the purpose of considering any Summons Motion;

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 a Summons Motion;

AND WHEREAS counsel for the Receiver advised the Commission that the Receiver intended to bring a Summons Motion (“Receiver Motion”);

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 Summons Motion;

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 the Receiver Motion, and that a hearing be held on February 8, 2013 at 10:00 a.m., following the hearing of any Receiver Motion, for the purpose of considering any other Summons Motion;

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 the Receiver Motion be adjourned to February 19, 2013 at 10:00 a.m., and that the hearing for the purpose of considering any other Summons Motion be adjourned to February 19, 2013 at 10:00 a.m., following the hearing of the Receiver Motion;

AND WHEREAS on February 7, 2013, counsel for Sbaraglia and counsel for the Receiver advised that they would not be available on February 19, 2013 to attend the Receiver Motion but would be available on February 27, 2013;

AND WHEREAS on February 8, 2013, the Commission ordered that the hearing of the Receiver Motion be adjourned to February 27, 2013 at 10:00 a.m., and that the hearing of any other Summons Motion be adjourned to February 27, 2013 at 10:00 a.m., following the hearing of the Receiver Motion;

AND WHEREAS at the request of Sbaraglia, summonses have been issued by the Commission to a number of individuals, including the Receiver;

AND WHEREAS on February 22, 2013, the Commission held a confidential pre-hearing conference in this matter and heard submissions from Staff and counsel for Sbaraglia;

AND WHEREAS the parties consent to this order;

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

IT IS ORDERED that:

1. Staff will deliver its hearing brief and accounting summaries with respect to the hearing on the merits by March 6, 2013;
2. Sbaraglia will deliver his hearing brief with respect to the hearing on the merits by March 6, 2013;
3. Staff will deliver the will-say statements of all Staff witnesses with respect to the hearing on the merits by March 8, 2013; and
4. The confidential pre-hearing conference is adjourned to Wednesday, February 27, 2013, immediately following the Receiver Motion.

DATED at Toronto this 22nd day of February 2013.

“Alan Lenczner”

Alan Lenczner, Q.C.