Ontario Securities Commission
Commission des valeurs mobilières de l'Ontario
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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
SANDY WINICK, ANDREA LEE MCCARTHY,
KOLT CURRY, LAURA MATEYAK, GREGORY J. CURRY,
AMERICAN HERITAGE STOCK TRANSFER INC.,
AMERICAN HERITAGE STOCK TRANSFER, INC.,
BFM INDUSTRIES INC., LIQUID GOLD INTERNATIONAL CORP.,
(aka LIQUID GOLD INTERNATIONAL INC.)
and NANOTECH INDUSTRIES INC.

REASONS AND DECISION ON SANCTIONS AND COSTS WITH RESPECT TO SANDY WINICK AND GREGORY J. CURRY

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

Hearing:	In Writing	
Decision:	December 30, 2013	
Panel:	James D. Carnwath, Q.C.	- Commissioner and Chair of the Panel
Submissions:	Jonathon Feasby Cameron Watson Harald Marcovici	- For Staff of the Ontario Securities Commission

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REASONS AND DECISION ON SANCTIONS AND COSTS
WITH RESPECT TO SANDY WINICK AND GREGORY J. CURRY

I. INTRODUCTION

[1] This was a hearing conducted in writing before the Ontario Securities Commission (the "**Commission**"), pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Act***"), to consider whether it is in the public interest to make an order imposing sanctions and costs against Sandy Winick ("**Winick**") and Gregory J. Curry ("**Greg Curry**") (collectively, the "**Respondents**").

[2] This proceeding arises out of a Notice of Hearing issued by the Commission dated January 27, 2012, pursuant to sections 127 and 127.1 of the *Act*, in relation to a Statement of Allegations, also dated January 27, 2012, filed by Staff of the Commission ("**Staff**") against Winick, Andrea Lee McCarthy ("**McCarthy**"), Kolt Curry, Laura Mateyak ("**Mateyak**"), Greg Curry, American Heritage Stock Transfer Inc. ("**AHST Ontario**"), American Heritage Stock Transfer, Inc. ("**AHST Nevada**"), BFM Industries Inc. ("**BFM**"), Liquid Gold International Corp. (also known as Liquid Gold Inc.) ("**Liquid Gold**") and Nanotech Industries Inc. ("**Nanotech**").

[3] On April 1, 2011, the Commission issued a temporary cease trade order (the "**Temporary Order**") against BFM, AHST Ontario, AHST Nevada, Denver Gardner Inc., which is an investment bank from Singapore ("**Denver Gardner**"), Winick, McCarthy, Kolt Curry and Mateyak. The Temporary Order was extended and amended from time to time. On March 23, 2012, it was extended until the conclusion of the hearing on the merits, which was scheduled to commence on November 12, 2012.

[4] On October 17, 2012, the Commission ordered that, pursuant to Rule 11.5 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the "***Rules of Procedure***"), the hearing on the merits would proceed as a written hearing. On November 2, 2012, Staff filed an Amended Statement of Allegations in respect of the same parties to the Statement of Allegations and the Commission issued an Amended Notice of Hearing on the same day.

[5] On January 21, 2013, on consent of Staff and counsel for McCarthy, BFM and Liquid Gold (the "**McCarthy Respondents**"), the Commission granted Staff's application to sever the matter, as against the McCarthy Respondents, and adjourned that matter to a date to be fixed by the Office of the Secretary of the Commission in consultation with counsel (*Re Sandy Winick et al.* (2013), 36 O.S.C.B. 1065).

[6] On May 16, 2013, the Panel accepted an Agreed Statement of Facts for Kolt Curry, Mateyak, AHST Ontario and AHST Nevada (the "**Curry Respondents**") and found that the Curry Respondents had contravened Ontario securities law and acted contrary to the public interest. At the request of Staff and counsel for Kolt Curry, Mateyak and AHST Ontario, the Commission also ordered that the hearing against the Curry Respondents be severed from the

main proceeding in this matter and scheduled a sanctions hearing in respect of the Curry Respondents for August 27, 2013 (*Re Sandy Winick et al.* (2013), 36 O.S.C.B. 5508).

[7] On August 7, 2013, I issued my reasons and decision with respect to Winick and Greg Curry in the continuation of the written hearing on the merits (*Re Winick* (2013), 36 O.S.C.B. 8202 (the "**Merits Decision**")). The Commission issued an accompanying order on the same day, which scheduled the sanctions and costs hearing and the filing of submissions with respect to the Respondents, and extended the Temporary Order against Winick until the conclusion of the proceeding (*Re Sandy Winick et al.* (2013), 36 O.S.C.B. 8192).

[8] These reasons and decision on sanctions and costs include my findings as they relate to the Respondents, being Winick and Greg Curry. Similar to the Merits Decision, I will not be making further analysis or findings with respect to the McCarthy Respondents, the Curry Respondents or Nanotech.

II. BACKGROUND

[9] This matter involves three separate, but related, schemes through which investors purchased or received securities of BFM, Liquid Gold and Nanotech. Staff alleged that Winick engaged in unregistered trading, illegally distributed securities, perpetrated securities fraud on other persons or companies and made statements that a reasonable investor would consider relevant in deciding whether to enter or maintain a trading or advising relationship. Staff alleged that the statements were untrue or omitted information necessary to prevent the statements from being false or misleading. Staff further alleged that Greg Curry, as director and officer of BFM, and Winick, as directing mind and *de facto* director and officer of BFM, Liquid Gold, Nanotech, AHST Ontario and AHST Nevada, authorized, permitted or acquiesced in commission of breaches of Ontario securities law by those respective corporations and therefore Greg Curry and Winick were deemed to also have not complied with Ontario securities law.

[10] Following my review of the parties' written submissions, I made the following findings:

(a) Winick traded in and engaged in or held himself out as engaging in the business of trading in securities of BFM, Liquid Gold and Nanotech without being registered to do so in circumstances in which no exemption was available, contrary to subsection 25(1)(a) of the *Act*, as that section was in force at the time the conduct commenced and contrary to subsection 25(1) at the *Act*, as subsequently amended on September 28, 2009, and contrary to the public interest;

(b) Winick distributed securities of BFM, Liquid Gold and Nanotech without a preliminary prospectus and prospectus having been filed and receipts having been issued for them by the Director and without an exemption from the prospectus requirement, contrary to subsection 53(1) of the *Act* and contrary to the public interest;

(c) Winick, directly or indirectly, engaged or participated in acts, practices or a course of conduct relating to securities of BFM and Liquid Gold, that he knew or

reasonably ought to have known perpetrated a fraud on any person or company, contrary to subsection 126.1(b) of the *Act* and contrary to the public interest;

(d) Winick, as *de facto* director and/or officer of BFM, Liquid Gold and Nanotech, did authorize, permit or acquiesce in the non-compliance with Ontario securities law by respective employees, agents or representatives of those companies and Winick is therefore deemed to also have not complied with Ontario securities law in accordance with section 129.2 of the *Act*; and

(e) Greg Curry, as director of BFM, did permit or acquiesce in the non-compliance with Ontario securities law by BFM or by the employees, agents or representatives of BFM and Greg Curry is therefore deemed to also have not complied with Ontario securities law in accordance with section 129.2 of the *Act*.

(Merits Decision, above at paras. 165 and 166)

[11] To demonstrate service to the Respondents of Staff's written submissions on sanctions and costs, including its bill of costs, Staff has provided the Affidavit of Tia Faerber sworn September 9, 2013 and the Affidavit of Laura Fisher sworn August 26, 2013. The Respondents did not participate in this hearing or make submissions on sanctions and costs. I am satisfied that I may proceed in the absence of the Respondents, in accordance with section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, and Rule 7.1 of the Commission's *Rules of Procedure*.

III. THE MERITS DECISION

A. The BFM Scheme

[12] In the Merits Decision, I found that between June 2009 and December 2010, the Respondents, acting on behalf of BFM, raised over $360,000 from at least 28 foreign resident investors through an investment scheme involving the sale of BFM securities (the "**BFM Scheme**"). BFM sold previously unissued securities over the phone to foreign investors through Denver Gardner. I found that Denver Gardner was a fictional company invented by Winick to mislead investors about the identity of the sellers of BFM and Liquid Gold securities (Merits Decision, above at para. 47). Investors were instructed to wire funds not to Denver Gardner, but directly to the bank accounts held by BFM and Liquid Gold.

[13] Although Winick was not formally appointed as a director or officer of BFM, I found that Winick participated in all major business decisions of the company, and I concluded that Winick was the directing mind, the management and a *de facto* director and officer of BFM.

[14] I found that BFM had no legitimate business and that it never had any assets or operations, other than an alleged stock purchase agreement made with a fertilizer company that was later terminated. BFM also did not receive any revenue from any sources apart from the funds raised from the sale of its own securities to investors. Most investor funds of BFM were

spent on personal expenditures related entirely to Winick and entities that he controlled (Merits Decision, above at paras. 43, 130 and 131).

[15] Winick directed McCarthy to create the BFM website and directed her as to the use of investor funds deposited into the bank accounts of BFM. The BFM website furthered the deceptive BFM Scheme by creating the appearance that BFM was an operating entity. Winick also directed McCarthy to sign and forward BFM shares to BFM investors and he determined how many shares were to be issued to each investor. I found these acts to be acts in furtherance of trades. The trades of BFM securities were effected through a fictitious entity, Denver Gardner, and demonstrated that Winick was orchestrating a complex trading scheme, which included the issuance of BFM shares.

[16] Greg Curry was the president of BFM and received USD$78,000 directly from Winick and from a company of which Winick's wife was the sole director and officer (Merits Decision, above at para. 61). Greg Curry was Winick's nominee throughout the time BFM was selling securities.

B. The Liquid Gold Scheme

[17] Between June 2009 and November 2010, a total of USD$84,805.62 was raised from an investment scheme involving the sale of Liquid Gold shares to at least four Liquid Gold investors (the "**Liquid Gold Scheme**") (Merits Decision, above at para. 138). In the Merits Decision, I found that Winick used the fictitious company, Denver Gardner, to sell the shares of Liquid Gold, which were previously unissued, and that Winick orchestrated the complex Liquid Gold Scheme. Liquid Gold was an inactive company, did not have a legitimate business and did not have any assets other than cash.

[18] A total of USD$2.6 million was deposited into the Liquid Gold bank accounts, which included the approximately USD$85,000, mentioned above, which came from the sale of Liquid Gold shares to the public. The bulk of the USD$2.6 million was depleted by withdrawals and transfers for purposes unrelated to the alleged business of Liquid Gold, and I found that nearly half of the funds from the Liquid Gold bank accounts, approximately $1,260,500, was accepted by Winick for his personal benefit (Merits Decision, above at paras. 144 and 145). I also found that Winick directed McCarthy to disperse funds for the payment of personal expenses of Winick and his cohorts.

[19] Similar to BFM, Winick was not formally appointed as a director or officer of Liquid Gold, but he participated in the major business decisions of the company for the purposes of the Liquid Gold Scheme. I concluded that Winick was the directing mind and management of Liquid Gold.

C. The Nanotech Letter Scheme

[20] In early 2009, Winick instructed Kolt Curry to send out 10,000 individual letters (the "**Nanotech Letters**") to addresses in Europe, Asia, Africa and Australia, and each letter contained stock purchase warrants for Nanotech (the "**Nanotech Letter Scheme**"). I found that

the Nanotech Letter constituted securities under the *Act* and Winick acted in furtherance of trades in such securities.

[21] The Nanotech Letter contained misleading statements, including statements regarding Nanotech's share price, and invited potential investors to exercise warrants enclosed in the letter. Fortunately, there was no evidence that any investor exercised the warrants offered in the Nanotech Letter (Merits Decision, above at para. 81). Although Nanotech was listed as "inactive" and "administratively dissolved" by the Wyoming Secretary of State since March 14, 2009, the Nanotech Letter and the website of Nanotech presented the company as a going concern (Merits Decision, above at paras. 86 and 87).

[22] I found that Winick undertook to distribute Nanotech shares and raise capital by offering Nanotech purchase warrants to members of the public through AHST Ontario and AHST Nevada. I concluded that Winick was the *de facto* director and/or officer of Nanotech; however, I could not conclude that Winick was a *de factor* director or officer of AHST Ontario or AHST Nevada (Merits Decision, above at paras. 162 and 163). I was also unable to find that Winick made prohibited representations that were contrary to subsection 44(2) of the *Act* (Merits Decision, above at para. 158).

[23] On March 15, 2011, Winick and Greg Curry were arrested in Bangkok, Thailand for operating an illegal telemarketing fraud. Files seized by the Royal Thai Police were copied and provided to the Royal Canadian Mounted Police liaison officer in Bangkok. The documents included over 3,000 addressed copies of the Nanotech Letter, shareholder lists for BFM and Liquid Gold and a host of other documents connecting Winick to the BFM Scheme, the Liquid Gold Scheme and the Nanotech Letter Scheme.

IV. SANCTIONS AND COSTS REQUESTED BY STAFF

[24] Staff submitted that the following sanctions are appropriate and in the public interest:

(a) an order pursuant to clause 2 of subsection 127(1) of the *Act* that trading in any securities by Winick or Greg Curry cease permanently;

(b) an order pursuant to clause 2.1 of subsection 127(1) of the *Act* that the acquisition of any securities by Winick or Greg Curry is prohibited permanently;

(c) an order pursuant to clause 3 of subsection 127(1) of the *Act* that any exemptions contained in Ontario securities law do not apply to Winick or Greg Curry permanently;

(d) an order pursuant to clause 7 of subsection 127(1) of the *Act* that Winick or Greg Curry resign any position that they hold as a director or officer of an issuer;

(e) an order pursuant to clause 8 of subsection 127(1) of the *Act* that Winick and Greg Curry be prohibited permanently from becoming or acting as a director or officer of any issuer;

(f) an order pursuant to clause 8.2 of subsection 127(1) of the *Act* that Winick and Greg Curry be prohibited permanently from becoming or acting as a director or officer of a registrant;

(g) an order pursuant to clause 8.4 of subsection 127(1) of the *Act* that Winick and Greg Curry be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;

(h) an order pursuant to clause 8.5 of subsection 127(1) of the *Act* that Winick and Greg Curry be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(i) an order pursuant to section 37 of the *Act* that Winick and Greg Curry be prohibited permanently from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities.

(j) an order pursuant to clause 6 of subsection 127(1) of the *Act* that Winick and Greg Curry are thereby reprimanded;

(k) an order pursuant to clause 9 of subsection 127(1) of the *Act* that Winick pay an administrative penalty of $1,250,000 to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*;

(l) an order pursuant to clause 9 of subsection 127(1) of the *Act* that Greg Curry pay an administrative penalty of $250,000 to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*;

(m) an order pursuant to clause 10 of subsection 127(1) of the *Act* that Winick disgorge to the Commission a total of CAD$359,200 to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*;

(n) an order pursuant to clause 10 of subsection 127(1) of the *Act* that Greg Curry disgorge to the Commission a total of USD$78,000 to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*;

(o) an order pursuant to subsection 127.1 of the *Act* that Winick pay $279,350 of the costs of the hearing, $50,000 of which shall be payable jointly a severally with Greg Curry; and

(p) an order pursuant to subsection 127.1 of the *Act* that Greg Curry pay $50,000 of the costs of the hearing, jointly and severally with Winick.

[25] As previously mentioned, the Respondents did not participate or provide any submissions in relation to this hearing on sanctions and costs.

V. THE APPLICABLE LAW

A. Approach to the Imposition of Sanctions

[26] 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. As expressed in the oft-cited decision of *Re Mithras Management Ltd.*:

> …the role of this Commission is to protect the public interest be 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...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 O.S.C.B. 1600 at 1610-1611)

[27] This view was endorsed by the Supreme Court of Canada in the following terms:

> … the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the [Commission] under s. 127 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 SCC 37 at para. 43)

[28] In determining the nature and duration of sanctions, the Commission has considered the following factors:

(a) the seriousness of the allegations proved;

(b) the respondents' experience in the marketplace;

(c) the level of a respondent's activity in the marketplace;

(d) whether or not there has been a 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) whether the violations are isolated or recurrent;

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

(i) the size of any financial sanction or voluntary payment when considering other factors;

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

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

(l) the reputation and prestige of the respondent;

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

(n) the remorse of the respondent.

(*Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746-7747; *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 at 1136; *Re M.C.J.C. Holdings Inc.* (2003), 26 O.S.C.B. 8206 at para. 55; *Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593 (Div. Ct.))

[29] The Supreme Court of Canada has held that it is appropriate for the Commission to consider general deterrence in crafting sanctions which are designed to preserve the public interest. The court stated that 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 ("***Re Cartaway***") at paras. 60 and 64).

[30] The Commission has applied *Re Cartaway* and considered "the importance of deterring not only those involved in this matter, but also like-minded people from engaging in similar conduct" (*Re Momentas Corp.* (2007), 30 O.S.C.B. 6475 ("***Re Momentas***") at para. 51). The Commission concluded that:

> [i]n order to promote both general and specific deterrence we found it necessary to impose severe sanctions including permanent cease trade orders, permanent exclusions from exemptions, and a permanent prohibition from acting as an officer or director of a reporting issuer.

(*Re Momentas*, above at para. 52)

B. Application of Factors to the Respondents

[31] I find that the factors below are particularly relevant to my findings in imposing sanctions that are appropriate and proportionate to the circumstances of the Respondents.

1. The Seriousness of the Allegations

[32] The findings in the Merits Decision established serious contraventions of the *Act*, particularly fraud. The Commission has previously held that fraud is "one of the most egregious securities regulatory violations" and is both an "affront to the individual investors directly targeted" and something that "decreases confidence in the fairness and efficiency of the entire capital market system" (*Re Al-Tar Energy Corp.* (2010), 33 O.S.C.B. 5535 at para. 214, citing *Re Capital Alternatives Inc.* (2007), A.B.A.S.C. 79 at para. 308, citing D. Johnston & K. D. Rockwell, *Canadian Securities Regulation*, 4th ed., Markham: LexisNexis, 2007 at 420).

[33] Winick committed a series of acts including the illegal distribution and unregistered trading of securities. Winick engaged in an ongoing course of deceitful and fraudulent conduct designed to personally enrich himself at the expense of innocent investors. He was assisted by Greg Curry, who carried out various tasks related to BFM's plans to invest in a fertilizer company. During the period he was acting as Winick's nominee, Greg Curry received substantial funds directly from Winick and from companies Winick controlled.

2. The Level of Activity in the Marketplace

[34] The Respondents' activity took place from May 2009 to December 2010. During that period, the Respondents' violations of Ontario securities law were widespread and were contrary to the public interest. The three schemes of the Respondents required multiple bank accounts and involved several companies. The BFM Scheme involved 28 resident foreign investors, the Liquid Gold Scheme involved at least four investors and the Nanotech Letter Scheme involved the Nanotech letter, which was sent to approximately 10,000 addresses internationally.

3. The Profit Made from Illegal Conduct

[35] As previously discussed above in paragraphs 12 and 17, approximately $360,000 was raised from investors in relation to the BFM Scheme. The Liquid Gold Scheme raised a total of USD$84,805.62, which amounts to approximately $93,000 in Canadian dollars, using Staff's proposed exchange rate of 1.1 to convert U.S. dollars to Canadian dollars. The total funds obtained from BFM and Liquid Gold investors therefore amounted to approximately $450,000. I note that a total of approximately USD$2.6 million was deposited into the bank accounts of Liquid Gold.

[36] In the Merits Decision, I found that Winick accepted funds from the bank accounts of BFM and Liquid Gold in the amount of approximately $251,800 and $1,260,500, respectively (Merits Decision, above at paras. 131 and 145). I found that Winick accepted these funds for his

personal benefit, including paying his expenses for credit card bills, personal taxes and hydro payments.

[37] In connection to the BFM Scheme, Greg Curry received over USD$78,000 directly from Winick and from a company of which Winick's wife was the sole director and officer.

4. Specific and General Deterrence

[38] The message must be sent to the Respondents and to other like-minded persons that schemes similar to the BFM Scheme, the Liquid Gold Scheme and the Nanotech Letter Scheme will draw severe sanctions. I find appropriate orders against the Respondents should include removing them from the capital markets permanently, imposing significant administrative penalties and ordering the disgorgement of funds obtained from the BFM Scheme and Liquid Gold Scheme. These sanctions will send a message to Winick, Greg Curry and to like-minded individuals that conduct that is similar to the Respondents' misconduct will result in significant sanctions.

[39] Staff seeks disgorgement orders against Winick for the amount of $359,200 and the amount of USD$78,000 from Greg Curry. I find that it is appropriate that the Respondents disgorge the funds that they obtained from their failure to comply with Ontario securities law. Staff has proven, on a balance of probabilities, that the amounts obtained by the Respondents resulted from their non-compliance with Ontario securities law (*Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 ("***Re Limelight***") at para. 53).

[40] I therefore find that that disgorgement orders for the amounts requested by Staff shall be ordered against the Respondents. I order that Greg Curry shall disgorge USD$78,000 on a joint and several basis with Winick. I order that Winick shall disgorge $359,200 obtained as a result of his non-compliance with Ontario securities law, of which USD$78,000 shall be payable with Greg Curry on a joint and several basis.

[41] Staff seeks an administrative penalty of $1,250,000 from Winick, calculated as the total of: $750,000 for his breach of subsection 126.1(b) of the *Act*, $250,000 for his breach of subsection 53(1) of the *Act* and $250,000 for his breach of section 25 of the *Act*. I find this request to be excessive. In this case, the allocation of an administrative penalty to various sections of the *Act* is not helpful and leads to an inappropriate result. The total amounts raised from investors was approximately $450,000, which I consider to be an amount in the low range of cases involving schemes of this kind. I find that an administrative penalty against Winick of $750,000 is sufficient to meet the requirements of specific and general deterrence.

[42] Staff seeks an administrative penalty of $250,000 against Greg Curry. Further to my reasons outlined above in paragraph 41, I find that the appropriate amount of the administrative penalty against Greg Curry shall be $150,000.

[43] In considering the appropriate sanctions against the Respondents, I have reviewed the following decisions: *Re Al-Tar Energy Corp.* (2011), 34 O.S.C.B. 447; *Re Lehman Cohort Global Group Inc.* (2011), 34 O.S.C.B. 2999; *Re Limelight*, above; *Re Lyndz Pharmaceuticals*

Inc. (2012), 35 O.S.C.B. 7357; *Re New Found Freedom Financial* (2013), 36 O.S.C.B. 6758; *Re Richvale Resource Corp.* (2012), 35 O.S.C.B. 10699; *Re Rowan* (2009), 33 O.S.C.B. 91; and *Re Sabourin* (2010), 33 O.S.C.B. 5299 at para. 65.

VI. COSTS

[44] Staff requests a costs order of $279,350 against Winick, of which $50,000 shall be payable with Greg Curry on a joint and several basis. In considering the appropriate costs orders against the Respondents, I have reviewed the factors outlined in Rule 18.2 of the Commission's *Rules of Procedure*. I have also reviewed the decisions listed above at paragraph 43, along with *Re Goldpoint Resources Corp.* (2013), 36 O.S.C.B. 1464.

[45] Staff provided a bill of costs (the "**Bill of Costs**"), which is found as an exhibit to the Affidavit of Laura Fisher sworn on August 26, 2013. I find that the total costs provided in the Bill of Costs is conservative in the circumstances. No costs are claimed for the investigation of this matter or the time spent preparing for and drafting the submissions for the sanctions and costs hearing. Also, no claim is made for disbursements incurred throughout this matter. I note, however, that the Bill of Costs provides for the investigation and hearing costs in connection to three separate matters, and only one of which relates to the Respondents in this matter. Therefore, I do not find it appropriate in the circumstances to order Winick to pay the total hearing costs of all three matters, given that he is a respondent in only one of the three matters.

[46] Neither Winick nor Greg Curry participated in the written hearing on the merits (Merits Decision, above at para. 19). I find that Winick and Greg Curry equally contributed to the costs incurred in this matter. As such, I order a costs order against Winick and Greg Curry for $50,000, which shall be payable on a joint and several basis.

VII. CONCLUSION

[47] For the reasons set out above, I conclude that it is in the public interest to make the orders set out below. In my view, the sanctions imposed will deter the Respondents and other like-minded individuals from engaging in similar misconduct in the capital markets in the future. I find that the sanctions are proportionate to the circumstances and conduct of each Respondent.

[48] I will issue a separate order giving effect to my decision on sanctions and costs as follows:

(a) pursuant to clause 2 of subsection 127(1) of the *Act*, trading in any securities by Winick or Greg Curry shall cease permanently;

(b) pursuant to clause 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Winick or Greg Curry shall be prohibited permanently;

(c) pursuant to clause 3 of subsection 127(1) of the *Act*, any exemptions contained in Ontario securities law shall not apply to Winick or Greg Curry permanently;

(d) pursuant to clause 6 of subsection 127(1) of the *Act*, Winick and Greg Curry are reprimanded;

(e) pursuant to clause 7 of subsection 127(1) of the *Act*, Winick and Greg Curry shall resign any position that they hold as a director or officer of an issuer;

(f) pursuant to clause 8 of subsection 127(1) of the *Act*, Winick and Greg Curry shall be prohibited permanently from becoming or acting as a director or officer of any issuer;

(g) pursuant to clause 8.5 of subsection 127(1) of the *Act*, Winick and Greg Curry shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(h) pursuant to clause 9 of subsection 127(1) of the *Act*, Winick shall pay an administrative penalty of $750,000 for his non-compliance with Ontario securities law, to be designated for allocation or for use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*;

(i) pursuant to clause 9 of subsection 127(1) of the *Act*, that Greg Curry shall pay an administrative penalty of $150,000 for his non-compliance with Ontario securities law, to be designated for allocation or for use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*;

(j) pursuant to clause 10 of subsection 127(1) of the *Act*, Winick shall disgorge to the Commission a total of $359,200 obtained as a result of his non-compliance with Ontario securities law, of which USD$78,000 shall be jointly and severally payable with Greg Curry;

(k) pursuant to clause 10 of subsection 127(1) of the *Act*, Greg Curry shall disgorge to the Commission a total of USD$78,000 obtained as a result of his non-compliance with Ontario securities law, which shall be jointly and severally payable with Winick;

(l) the disgorgement orders referred to in each of subparagraphs 48(j) and (k), above, shall be designated for allocation or for use by the Commission, pursuant to subsection 3.4(2)(b) of the *Act*; and

(m) pursuant to subsection 127.1 of the *Act*, Winick and Greg Curry shall jointly and severally pay $50,000 for the costs incurred in the hearing of this matter.

DATED at Toronto this 30th day of December, 2013.

"James D. Carnwath"

_____

James D. Carnwath, Q.C.