



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 GARTH H. DRABINSKY,
MYRON I. GOTTLIEB AND GORDON ECKSTEIN**

- AND -

**IN THE MATTER OF A
SETTLEMENT AGREEMENT BETWEEN STAFF
OF THE ONTARIO SECURITIES COMMISSION AND
GORDON ECKSTEIN**

ORDER

(Subsections 127(1) and 127(10))

WHEREAS on July 3, 2001, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to sections 127 and 127.1 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”) with respect to Garth H. Drabinsky (“Drabinsky”), Myron I. Gottlieb (“Gottlieb”), Gordon Eckstein (“Eckstein”), Robert Topol (“Topol”), and Livent Inc. (“Livent”);

AND WHEREAS on February 1, 2002, Eckstein gave an interim undertaking to the Director of Enforcement of the Commission (the “Director”) that pending the conclusion of the Commission proceeding, he would not apply to become a registrant or an employee of a registrant, or a Chief Executive Officer, Chief Financial Officer or Chief Operating Officer or director of a reporting issuer without the express written consent of the Director or an order of the Commission releasing him from the undertaking (the “Interim Undertaking”), as described in the Order of the Commission made on February 22, 2002;

AND WHEREAS on October 22, 2002, the Royal Canadian Mounted Police initiated a criminal proceeding against Drabinsky, Gottlieb, Eckstein and Topol for multiple counts of criminal fraud in relation to their conduct as directors and officers of Livent (the “Criminal Proceeding”);

AND WHEREAS by Order dated November 15, 2002, the Commission adjourned the hearing *sine die* pending the conclusion of the Criminal Proceeding, or until such further order as may be made by the Commission;

AND WHEREAS on February 26, 2007, pursuant to a guilty plea, Eckstein was convicted in the Ontario Superior Court of Justice of one count of criminal fraud over \$5000 in connection with misrepresentations made in the financial statements of Livent and its predecessor companies while he was an officer of these companies;

AND WHEREAS on March 25, 2009, Drabinsky and Gottlieb were found guilty in the Criminal Proceeding of two counts of criminal fraud over \$5000 and one count of forgery, and their convictions were upheld by the Ontario Court of Appeal on September 13, 2011;

AND WHEREAS the Supreme Court of Canada dismissed an application brought by Drabinsky to appeal the ruling of the Ontario Court of Appeal on March 29, 2012;

AND WHEREAS on February 19, 2013, Staff filed an Amended Statement of Allegations against Drabinsky, Gottlieb, and Eckstein;

AND WHEREAS on February 20, 2013, Staff withdrew its allegations against Livent and Topol;

AND WHEREAS on September 9, 2014, the Commission approved a settlement agreement reached between Staff and Gottlieb;

AND WHEREAS on April 20, 2015, Staff entered into a settlement agreement with Eckstein (the “Settlement Agreement”), subject to the approval of the Commission;

AND WHEREAS since December 2003, Eckstein has worked for a privately-held company that is not a registrant;

AND WHEREAS on May 22, 2015, the Commission held a hearing to consider whether to approve the Settlement Agreement, and the Commission heard submissions from counsel for Staff and counsel for Eckstein;

AND WHEREAS pursuant to section 127(10) of the Act and pursuant to the Settlement Agreement, Staff have filed documents with the Commission evidencing the fact the Eckstein was convicted in the Ontario Superior Court of Justice of one count of criminal fraud over \$5000 on February 26, 2007;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order pursuant to subsection 127(1) of the Act;

IT IS HEREBY ORDERED THAT:

- (a) the Settlement Agreement is approved;
- (b) Eckstein is released from the Interim Undertaking;
- (c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law will not apply to Eckstein;
- (d) pursuant to paragraph 7 of subsection 127(1) of the Act, Eckstein resign any positions that he holds as a director or officer of an issuer, except that Eckstein may continue to serve as an officer at his present employer;

- (e) pursuant to paragraph 8 of subsection 127(1) of the Act, Eckstein is permanently prohibited from becoming or acting as a director or officer of an issuer, except that Eckstein may continue to serve as an officer at his present employer;
- (f) pursuant to paragraph 8.1 of subsection 127(1) of the Act, Eckstein resign any positions that he holds as a director or officer of a registrant;
- (g) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Eckstein is permanently prohibited from becoming or acting as a director or officer of a registrant;
- (h) pursuant to paragraph 8.3 of subsection 127(1) of the Act, Eckstein resign any positions that he holds as a director or officer of an investment fund manager;
- (i) pursuant to paragraph 8.4 of subsection 127(1) of the Act, Eckstein is permanently prohibited from becoming or acting as a director or officer of an investment fund manager; and
- (j) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Eckstein is permanently prohibited from becoming or acting as a registrant, an investment fund manager, or as a promoter of any issuer.

DATED at Toronto this 22nd day of May, 2015.

“Alan Lenczner”

Alan J. Lenczner, Q.C.