Ontario Securities Commission | Commission des valeurs mobilières de l'Ontario | 22nd Floor, 20 Queen Street West, Toronto ON M5H 3S8 | 22e 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 EDA MARIE AGUECI, DENNIS WING, SANTO IACONO, JOSEPHINE RAPONI, KIMBERLEY STEPHANY, HENRY FIORILLO, GIUSEPPE (JOSEPH) FIORINI, JOHN SERPA, IAN TELFER, JACOB GORNITZKI and POLLEN SERVICES LIMITED

REASONS AND DECISION ON SANCTIONS AND COSTS (Subsection 127(1) and Section 127.1 of the Act)

Hearing:	April 13 and 14, 2015	
Decision:	June 24, 2015	
Panel:	Edward P. Kerwin	- Chair of the Panel
	Deborah Leckman	- Commissioner
	AnneMarie Ryan	- Commissioner
Appearances:	Cullen Price Albert Pelletier Clare Devlin	- For Staff of the Commission
	Peter Howard Ellen Snow	- For Henry Fiorillo
	Donald Sheldon Patricia McLean	- For Dennis Wing
	David Moore Ken Jones	- For Kimberley Stephany
	James Douglas Caitlin Sainsbury	- For Eda Marie Agueci

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REASONS AND DECISION

I. BACKGROUND

[1] This was a hearing 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 with respect to sanctions and costs against Eda Marie Agueci ("Agueci"), Dennis Wing ("Wing"), Henry Fiorillo ("Fiorillo"), Kimberley Stephany ("Stephany"), and Pollen Services Limited ("Pollen") (collectively, the "Respondents").

[2] The proceeding commenced on February 7, 2012 when the Commission issued a Notice of Hearing in connection with a Statement of Allegations filed by Enforcement Staff of the Commission ("Staff") on the same day. An Amended Statement of Allegations was filed and served by Staff on September 26, 2013.

[3] The hearing on the merits in this proceeding took place over 57 days between September 30, 2013 and April 30, 2014. Additional submissions were provided by Staff and the Respondents on or prior to September 30, 2014. The decision on the merits was issued on February 11, 2015.[1] The hearing to consider sanctions and costs in this proceeding was held on April 13 and 14, 2015 and forms the basis for these reasons (the "Sanctions and Costs Hearing"). All of the Respondents, except Pollen, attended and made submissions on sanctions and costs.

II. MERITS DECISION

[4] The Merits Decision dealt with alleged breaches of various sections of the Act relating to insider trading, tipping, misleading Staff and/or breaching a confidentiality provision as it relates to the Commission's investigation.

[5] Our findings on the merits with respect to the Respondents can be summarized as follows:

(a) Agueci:

i. breached subsection 76(2) of the Act and acted contrary to the public interest by informing others, other than in the necessary course of business, of material facts regarding five reporting issuers: Energy Metals Corporation ("EMC"), Northern Orion Resources Inc. ("NNO"), Meridian Gold Inc. ("Meridian"), HudBay Minerals Inc. ("HudBay") and/or Coalcorp Mining Inc. ("Coalcorp"), before the facts had been generally disclosed;

ii. misled Staff, contrary to subsection 122(1)(a) of the Act and the public interest;

iii. disclosed information to certain of the Respondents in breach of a confidentiality provision, section 16 of the Act and acted contrary to the public interest; and

[1] *Re Eda Marie Agueci et al* (2015), 38 O.S.C.B. 1573 (the "Merits Decision").

iv. engaged in conduct contrary to the public interest through her involvement with a secret account, her failure to disclose that account to her employer and her impersonation of her mother when placing trades in that account;

(b) Wing:

i. breached subsection 76(1) of the Act and acted contrary to the public interest by purchasing securities of EMC and HudBay with knowledge of material facts, which had not been generally disclosed, having learned of those facts from Agueci, when Wing knew or ought to have known that Agueci was in a special relationship with the subject reporting issuer;

ii. authorized, permitted or acquiesced in Pollen's non-compliance with Ontario securities law in respect of Pollen's illegal purchases of securities of EMC, NNO, Meridian and HudBay, such that Wing was deemed to also have not complied with Ontario securities law, pursuant to section 129.2 of the Act; and

iii. misled Staff, contrary to subsection 122(1)(a) of the Act and the public interest;

(c) Pollen, through Wing, breached subsection 76(1) of the Act and acted contrary to the public interest by purchasing securities of EMC, NNO, Meridian and HudBay with knowledge of material facts, which had not been generally disclosed, having learned of those facts from Agueci, when Pollen knew or ought to have known that Agueci was in a special relationship with the subject reporting issuer;

(d) Fiorillo breached subsection 76(1) of the Act and acted contrary to the public interest by purchasing securities of EMC, HudBay and Coalcorp with knowledge of material facts, which had not been generally disclosed, having learned of those facts from Agueci, when Fiorillo knew or ought to have known that Agueci was in a special relationship with the subject reporting issuer;

(e) Stephany:

i. breached subsection 76(1) of the Act and acted contrary to the public interest by purchasing securities of EMC, HudBay and Coalcorp with knowledge of material facts, which had not been generally disclosed, having learned of those facts from Agueci, when Stephany knew or ought to have known that Agueci was in a special relationship with the subject reporting issuer;

ii. engaged in conduct contrary to the public interest through her recommendation to her client, S.P., that he buy shares of EMC and HudBay, and execution of orders to purchase those shares with knowledge of the undisclosed material facts received from Agueci. [2]

[6] It is this conduct and these findings that we consider in determining the appropriate sanctions to impose in this matter.

[2] *Ibid.* at para. 737.

III. LAW ON SANCTIONS

[7] The Commission's mandate is: (i) to protect investors from unfair, improper or fraudulent practices; and (ii) to foster fair and efficient capital markets and confidence in the capital markets.[3]

[8] The Commission has a public interest jurisdiction to order sanctions that may limit or prohibit participation in the Ontario capital markets in the future by "those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets".[4] The Commission's role when imposing sanctions is not to punish past conduct, but to restrain "future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient".[5]

[9] The Commission must ensure that the sanctions imposed are proportionate to the circumstances of the case and the conduct of each respondent. Factors that 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;

(j) 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;

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

(m) the remorse of the respondent.[6]

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[3] Section 1.1 of the Act.
[4] *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission),* [2001] 2 S.C.R. 132 at para. 43.
[5] *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at p. 1611.
[6] *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746; *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 ("*M.C.J.C. Holdings*") at 1136.

[10] Deterrence, both general and specific, is an important factor that the Commission may consider when determining appropriate sanctions. In *Cartaway*, the Supreme Court of Canada stated that: "…it is reasonable to view general deterrence as an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative".[7]

[11] The panel in *Limelight Sanctions* considered the deterrent purpose of administrative penalties. Specifically, the Commission stated:

> The purpose of an administrative penalty is to deter the particular respondents from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants that the conduct in question will not be tolerated in Ontario capital markets.[8]

[12] There is no formula for determining an administrative penalty. Factors to be considered in determining an appropriate administrative penalty include: the seriousness of the 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 or obtained from investors; and the level of administrative penalties imposed in other cases.[9]

[13] Subsection 127(1)10 of the Act provides that a person or company that has not complied with Ontario securities law can be ordered to disgorge to the Commission "any amounts obtained" as a result of the non-compliance. When determining the appropriate disgorgement orders, the Commission is guided by a non-exhaustive list of factors set out in *Limelight Sanctions* at para. 52, including:

(a) whether an amount was obtained by a respondent as a result of non-compliance with the Act;

(b) the seriousness of the misconduct and the breaches of the Act and whether investors were seriously harmed;

(c) whether the amount that a respondent obtained as a result of non-compliance with the Act is reasonably ascertainable;

(d) whether the individuals who suffered losses are likely to be able to obtain redress; and

(e) the deterrent effect of a disgorgement order on the respondents and other market participants.

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[7] *Re Cartaway Resources Corp.,* [2004] 1 S.C.R. 672 at para. 60.
[8] *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 ("*Limelight Sanctions*") at para. 67.
[9] *Re MRS Sciences Inc. et al.* (2014), 37 O.S.C.B. 5611 at para. 105, citing *Limelight Sanctions, supra* at paras. 71 and 78.

IV. THE SERIOUSNESS OF CERTAIN ALLEGATIONS

A. Insider Trading and Tipping

[14] The Commission determined, in *Landen*, that "[i]nsider trading is an extremely serious offence under the Act".[10] The Commission has stated in several decisions that "[i]llegal insider trading by its very nature is a cancer that erodes public confidence in the capital markets. It is one of the most serious diseases our capital markets face."[11]

[15] As noted in *Suman*, the Commission views insider trading and tipping to be "equally reprehensible".[12]

[16] Agueci's conduct in tipping the other Respondents in breach of subsection 76(2) of the Act and the conduct of the other Respondents in trading in breach of subsection 76(1) of the Act are among the most serious contraventions of the Act.

B. Misleading Staff

[17] The Commission has held that misleading Staff is a particularly egregious violation of the public interest and a serious breach of the Act.[13]

[18] The importance of providing full and accurate information to the Commission was enunciated forcefully by the Ontario Court of Appeal in *Wilder* and restated in *Moncasa*:

> The [Commission] is charged with the statutory obligation to do its best to ensure that those involved in the securities industry provide fair and accurate information so that public confidence in the integrity of the capital markets is maintained. It is difficult to imagine anything that could be more important to protecting the integrity than ensuring that those involved in those markets, whether as direct participants or as advisers, provide full and accurate information to the [Commission].[14]

V. APPROPRIATE SANCTIONS

A. Agueci

1. Specific Sanctioning Factors

[19] Agueci initiated the course of conduct that led to multiple violations of Ontario securities law by other Respondents. Without her tipping, the other Respondents could not have engaged in illegal insider trading in the relevant issuers'

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[10] *Re Landen* (2010), 33 O.S.C.B. 9489 ("Landen") at para. 56.
[11] *M.C.J.C. Holdings, supra* at 1135; See also *Re Harper* (2004) 27 O.S.C.B. 3937 at para. 49 and *Re Donnini* (2002), 25 O.S.C.B. 6225 ("Donnini") at para. 202.
[12] *Re Shane Suman and Monie Rahman* (2012), 35 O.S.C.B. 11218 ("*Suman*") at para. 32.
[13] *Re Moncasa Capital Corporation and John Frederick Collins* (2014), 37 O.S.C.B. 229 at para. 21 and *Re Norshield Asset Management (Canada) Ltd. et al.* (2010), 33 O.S.C.B. 7171 ("*Norshield*") at para. 83.
[14] *Re Moncasa Capital Corporation and John Frederick Collins* (2013), 36 O.S.C.B. 5320 at para. 149, citing *Wilder et al v. Ontario Securities Commission* (2001), 53 O.R. (3d) 519 (C.A.) at para. 22.

securities. Agueci was an employee of a registrant and in her role as executive assistant to the Head of Investment Banking at GMP Securities L.P. ("GMP"), she had frequent knowledge of and access to confidential client information. She most certainly should have understood the importance of the confidential information acquired in the course of her employment. She was required to attend presentations regarding compliance and to make annual certification that she understood GMP's Confidentiality Agreement and Compliance Manual, among other documents. Her conduct in informing others of generally undisclosed material facts obtained in the course of her employment at GMP was a serious abuse of her position and undermines confidence in the capital markets.

[20] An aggravating factor for Agueci was her subsequent misconduct in misleading Staff and breaching confidentiality during the Commission's investigation.

[21] We have considered that Agueci had some experience and was active in the marketplace. However, there was no evidence that she profited from her misconduct and we acknowledge that this proceeding has had an impact on her livelihood in the securities industry.

[22] Agueci provided very limited information about her current financial status. She tendered no evidence with respect to her assets or investments. Her counsel provided us with unsigned 2013 Canada Revenue Agency documents that do not provide satisfactory evidence of her current income. We find it inconsistent that, despite her submission that she has limited ability to pay financial sanctions and costs, Agueci seeks a trading and acquisition ban carve-out to retain one or more portfolio managers. We also place no weight on the unsworn letter of "Ermina Agueci", which states that she is Agueci's dependent, but provides no corroborating evidence.

2. Market Prohibitions

[23] Staff seeks permanent prohibitions against Agueci with respect to: (i) trading and acquisition of securities; (ii) exemptions available under Ontario securities law; (iii) her ability to become or act as an officer or director of any reporting issuer, a registrant or an investment fund manager; and (iv) her ability to be a registrant, investment fund manager or promoter.

[24] Agueci takes the position that more appropriate prohibitions would be: a trading and acquisition ban for a period of no longer than ten years, subject to a carve-out; and both a ban on acting as a director or officer of any reporting issuer, registrant or investment fund manager and a ban on acting as a registrant, investment fund manager or promoter, for no longer than ten years.

[25] In considering the sanctioning factors applicable to Agueci, we are not satisfied that she should ever be permitted to participate without check in the capital markets. Permanent market prohibitions would serve to protect the public as well as to deter Agueci and like-minded individuals from engaging in similar abuses of our capital markets. As a result, we agree with Staff's submissions that the type and term of market prohibitions sought in respect of Agueci are proportionate and preventative. However, we are prepared to grant Agueci a limited trading and acquisition ban carve-out for purposes of retirement and tax

planning in particular types of securities. The trading and acquisition ban carve-out detailed in our order will be available to Agueci only upon full payment of the administrative penalties and costs ordered against her.

[26] We note that, unlike Fiorillo, who is discussed below, Agueci provided no evidence to support her submission that she should be permitted to trade through a portfolio manager. We have no way of assessing her current holdings, for example, regarding the holdings previously held in a second secret account, or the impact of sanctions in that respect. Therefore, we are not satisfied that we ought to permit such a carve-out in the circumstances.

3. Administrative Penalties

[27] Staff submits that Agueci should pay administrative penalties totalling $350,000, composed of: (i) $225,000 for nine instances of tipping, contrary to subsection 76(2) of the Act; (ii)$100,000 for misleading Staff, contrary to subsection 122(1) of the Act; and (iii)$25,000 for breaching the confidentiality relating to Staff's investigation, contrary to section 16 of the Act.

[28] Agueci argues that an administrative penalty of $100,000 is more appropriate.

[29] We determine that administrative penalties amounting to $225,000 for her nine breaches of subsection 76(2) of the Act are proportionate. Agueci engaged in multiple and repeated serious breaches of the Act by tipping others in respect of five reporting issuers. This conduct was serious, but not on the same scale as the breaches of subsection 76(2) of the Act by a registrant, an officer and a director, such as Wing, for instance, and Agueci did not appear to profit from her misconduct.

[30] A further administrative penalty of $100,000 for having knowingly misled Staff and an additional administrative penalty of $25,000 for disclosing information to certain of the Respondents in breach of a confidentiality provision in the Act are also appropriate in the circumstances. Agueci made misrepresentations regarding secret accounts and showed little regard for the integrity of Staff's investigation. In coming to our conclusion, we considered the administrative penalties in the range of $25,000 to $500,000, which have been ordered in matters where respondents misled Staff.[15]

[31] In summary, Agueci is ordered to pay a total amount of $350,000 in administrative penalties for her non-compliance with the Act.

B. Wing and Pollen

1. Specific Sanctioning Factors

[32] Wing was an experienced registrant who had held senior positions in the securities industry for 35 years. As an officer and director of a registrant, he should have understood the importance of compliance with securities regulation. His misuse of generally undisclosed material information to realise profits for himself and Pollen were serious contraventions of Ontario securities law. Wing

[15] *Limelight Sanctions, supra* at para. 75; *Re Hu*, 2011 BCSECCOM 514 at 33; *Norshield, supra* at para. 113.

bears responsibility, by virtue of section 129.2 of the Act, for Pollen's misconduct in this matter. For the purposes of this proceeding we attribute Pollen's misconduct to Wing, who authorized, permitted or acquiesced in Pollen's non-compliance with the Act.

[33] We conclude that Wing was very experienced and highly active in the marketplace. While this proceeding has undoubtedly had an impact on his livelihood and reputation, he cannot be permitted to participate in the market, without check, in circumstances where he repeatedly disregarded his responsibilities under Ontario securities law and significantly profited, collectively with Pollen, in the amount of $520,916, from his misconduct.

[34] An aggravating factor for Wing was his subsequent and repeated conduct in misleading Staff during the course of its investigation. Wing was consciously hiding his beneficial interest, trading activity and financial gains in Pollen's Swiss account, which he controlled. He took active steps to keep secret his connection to, and interest in, Pollen's Swiss account. He subsequently continued to deny the existence of a personal account at the same foreign institution during the course of the merits hearing, despite having been shown documentary evidence for the personal account, which included a copy of his passport and account opening documents signed by him. At the time of Staff's investigation in 2011, Wing was both chief compliance officer ("CCO") and ultimate designated person ("UDP") of his firm. His conduct in misleading Staff demonstrates a serious disregard for the investigative process of the Commission.

2. Market Prohibitions

[35] Staff seeks permanent prohibitions against Wing with respect to: (i) trading and acquisition of securities; (ii) exemptions available under Ontario securities law; (iii) his ability to become or act as an officer or director of any reporting issuer, a registrant or an investment fund manager; and (iv) his ability to be a registrant, investment fund manager or promoter. Staff also submits that Wing should be ordered to resign as a director or officer of any reporting issuer or registrant. For Pollen, Staff seeks permanent prohibitions with respect to: (i) trading and acquisition of securities; and (ii) exemptions available under Ontario securities law.

[36] Wing takes the position that more appropriate prohibitions would be: a trading ban for a period of two years, subject to a carve-out; a ban on holding any position as a director or officer of a registrant, for two years; and a two-year suspension of his registration.

[37] Having considered the sanctioning factors applicable to Wing, we find that he should not, in any circumstance, ever be permitted to participate without check in the capital markets. Permanent market prohibitions against Wing would serve to protect the public as well as to deter him and like-minded people from engaging in similar abuses of our capital markets. As a result, we agree with Staff's submissions that the type and term of market prohibitions sought in respect of Wing are proportionate and preventative. Nevertheless, we are prepared to grant Wing the same limited trading and acquisition ban carve-out

permitted to Agueci, which will be available to Wing only upon full payment of the administrative penalties, disgorgement and costs ordered against him.

3. Disgorgement and Administrative Penalties

[38] Staff submits that Wing ought to disgorge $520,916, representing amounts obtained by him and Pollen as a result of their illegal conduct. Staff also requests that the Commission order Wing to pay administrative penalties totalling $1,750,000, composed of: (i) $1,500,000 for six instances of insider trading, contrary to subsection 76(1) of the Act; and (ii)$250,000 for misleading Staff, contrary to subsection 122(1) of the Act.

[39] Wing argues that his circumstances closely mirror those of Mr. White's settlement in *IBK* and, therefore, no administrative penalty or disgorgement should be ordered against him.[16] Wing further submits that he should be entitled to net his losses in securities of relevant issuers for the purposes of any disgorgement ordered.

[40] The circumstances of Wing can be differentiated clearly from the circumstances of White in *IBK*. Most significantly, White and IBK were sanctioned pursuant to a negotiated settlement with Staff, whereas Wing and Pollen contested the allegations, as reflected in the Merits Decision. Furthermore, White and IBK engaged in the sales of shares of one issuer, mainly in a three-day period, while in possession of the facts concerning two private placements of shares of the issuer. By comparison, Wing and Pollen, through Wing, engaged in the purchase of shares of four issuers over approximately an 80-day period while in possession of the facts of four proposed merger and acquisition transactions, which had not been generally disclosed. Finally, White and IBK sold approximately $600,000 in shares of the one issuer on the TSX, while Wing and Pollen acquired more than $4,530,000 in shares of four publicly traded target companies. We do not find the orders made in the *IBK* settlement to be persuasive or applicable to this matter.

[41] Also, we are not persuaded by Wing's submission that he ought to be permitted to net his loss from impugned trades in securities of one issuer against profits realized in others. In *Limelight Sanctions*, as in this case, the matter of what amounts were "obtained" was at issue. The Commission determined that:

> the legal question is not whether a respondent "profited" from the illegal activity but whether the respondent "obtained amounts" as a result of that activity. In our view, this distinction is made in the Act to make clear that all money illegally obtained from investors can be ordered to be disgorged, not just the "profit" made as a result of the activity.[17]

[42] We find that the same principle ought to be followed in this matter. Wing and Pollen ought not to be permitted to discount or set off any loss against amounts

[16] *Re IBK Capital Corp.* (2010), 33 O.S.C.B. 9471 ("*IBK*").
[17] *Limelight Sanctions, supra* at para. 49.

obtained through breaches of the Act. We agree that all money illegally obtained from insider trading can, and in this case should, be ordered to be disgorged, rather than just the net "profit" made as a result of the activity.

[43] Furthermore, Wing proposed that the 20-day average price of a security be considered for disgorgement purposes. In our view, the language of the Act contemplates an order for disgorgement that is founded on evidence, which identifies amounts obtained by a respondent as a result of a violation of the Act, and is not dependent on a theoretical calculation of what could potentially have been obtained by that respondent.

[44] We find that Wing and Pollen should jointly and severally disgorge the amount of $520,916. As stated above, Wing bears responsibility, by virtue of section 129.2 of the Act, for Pollen's misconduct in this matter. He held authority over and benefitted from Pollen's Swiss account and, therefore, we determine that he should be jointly and severally liable for payments obtained as a result of his and Pollen's non-compliance, which was directed by him.

[45] We determine that administrative penalties totalling $1,500,000 for the six breaches of subsection 76(1) of the Act by Wing and Pollen, through Wing, are appropriate. Wing and Pollen, through Wing, engaged in multiple and repeated serious breaches of the Act by trading with knowledge of material facts that were generally undisclosed in respect of four reporting issuers. Wing's conduct was egregious. At the time of his misconduct, Wing was registered as an officer and director of his firm. In addition, he attempted to conceal the impugned trading activity. We find his conduct reprehensible and determine that administrative penalties that amount to approximately three times the profit obtained from his misconduct should be ordered jointly and severally against him and Pollen.

[46] In addition, we determine that Wing should pay an administrative penalty of $250,000 for his repeated breaches of subsection 122(1) of the Act, by misleading Staff. His conduct undermined the investigation with respect to issues that later became the subject-matter of the proceeding, including details in respect of Pollen's Swiss account. Moreover, at the time Wing misled Staff, he was registered as the UDP and CCO, the person ultimately responsible for compliance at his firm.

[47] In total, Wing and Pollen are jointly and severally ordered to disgorge $520,916 and to pay $1,500,000 in administrative penalties for non-compliance with subsection 76(1) of the Act. In addition, Wing is ordered to pay and administrative penalty of $250,000 for his non-compliance with subsection 122(1) of the Act.

C. Fiorillo

1. Specific Sanctioning Factors

[48] Fiorillo was a registrant, a sophisticated and very experienced market participant and, of all the Respondents, the most active in the marketplace. He profited in the amount of $175,138, as a result of an informational advantage illegally obtained over other investors.

[49] Fiorillo's Affidavit states that since this proceeding was commenced, he has suffered harm in his personal and professional life. While this proceeding may have had an impact on Fiorillo's livelihood, we note that Fiorillo's testimony at the merits hearing indicated his intention, long before the hearing commenced, was to take a diminished role in his business. We accept, however, that Fiorillo's previously unblemished reputation has been impacted by the matter, causing him anxiety and stress, which we find to be a mitigating factor for Fiorillo.

[50] We also acknowledge that Fiorillo engaged in fewer violations of the Act, relative to the other Respondents.

2. Market Prohibitions

[51] Staff seeks prohibitions against Fiorillo with respect to: (i) trading and acquisition of securities, for 15-20 years; (ii) exemptions available under Ontario securities law, permanently; (iii) his ability to become or act as an officer or director of any reporting issuer, for 15-20 years; (iv) his ability to become or act as an officer or director of any reporting issuer, a registrant or an investment fund manager, permanently; and (v) his ability to be a registrant, investment fund manager or promoter, permanently. Staff also submits that Fiorillo should be ordered to resign as a director or officer of any reporting issuer or registrant.

[52] Fiorillo takes the position that more appropriate prohibitions would be: a trading and acquisition ban for a period of no longer than two and half years, subject to a permissive and complex carve-out; and both a ban on acting as a director or officer of any reporting issuer, registrant or investment fund manager and a ban on acting as a registrant, investment fund manager or promoter, for no longer than two and half years.

[53] Having considered the sanctioning factors applicable to Fiorillo, we are concerned that to accept his position would essentially permit him to participate without check in the capital markets. For a respondent who is and has been as active in the markets as Fiorillo, we determine that market prohibitions for a period of 15 years, notwithstanding his age, are required to protect the public as well as to serve purposes of general and specific deterrence. As a result, we agree with Staff's submissions that the type and term of market prohibitions sought are proportionate and preventative. We have determined, however, in the circumstances, to impose the trading and acquisition prohibitions on Fiorillo subject to: (i) the same limited carve-out permitted to the other Respondents (the "Specific Securities Carve-Out"); (ii) allowing a six-month period for liquidation of his current securities, held in those accounts over which Fiorillo exercises direction and control (the "Liquidation Carve-Out"); and (iii) specific provisions permitting Fiorillo to retain registered dealer/portfolio manager(s) to manage Fiorillo's investments (the "Portfolio Manager Carve-Out").

[54] The Specific Securities Carve-Out and the Portfolio Manager Carve-Out will be available to Fiorillo only upon full payment of the administrative penalties, disgorgement and costs ordered against him. Although Fiorillo submitted that he should be granted 45 days to pay those amounts, we do not find it appropriate or in the public interest to grant Fiorillo the additional time requested to pay

monetary sanctions and costs in order to access the benefits of the additional carve-outs granted.

[55] Fiorillo will be granted the Specific Securities Carve-Out, a limited trading and acquisition ban carve-out for purposes of retirement and tax planning in particular types of securities, as provided in the order. Although Fiorillo provided the Panel with a draft order, which included a carve-out to trade or acquire certain securities, including those of non-reporting issuers, he did not provide compelling submissions on why we ought to permit him to trade or acquire those securities. We are mindful that non-reporting issuers can and do become reporting issuers. In accordance with our view that, given his conduct, Fiorillo should not be permitted to participate in the capital markets for 15 years, subject to narrow exceptions, we are not satisfied that it would be in the public interest to permit such a carve-out.

[56] With respect to the Liquidation Carve-Out, we do not accept Fiorillo's submission to permit him one year to liquidate or flatten his options exposure to limit loss. Fiorillo did not provide evidence of how he calculated his potential loss or exposure. Fiorillo should not be unduly affected by our order due to the complexity of his portfolio, but he should also not be able to enjoy the privilege of trading in a manner that is so permissive that it has virtually no deterrent effect at all. We are mindful that Fiorillo took on certain positions after the merits decision was issued with knowledge that he might, in future, be subject to trading prohibitions that could affect his positions. In balancing the issues, we find that a six-month liquidation period is both appropriate and proportionate. Our intention in granting a six-month period for liquidation of securities held in accounts over which Fiorillo exercises direction and control is to allow Fiorillo to unwind all existing positions, including options. During the six-month period, Fiorillo is permitted to do the following, in accounts over which he exercises direction and control:

(a) trade or acquire put/call options only to flatten existing positions so that at the end of the six-month period he will have no outstanding exposure to options;
(b) exercise any options that expire within the six-month period and trade or acquire the related stock position as necessary; and
(c) trade any other securities held in those accounts.

[57] With respect to the Portfolio Manager Carve-Out, Fiorillo will be allowed to retain the services of and maintain relationships with one or more independent, arms-length portfolio managers, who are registered under Ontario securities law, to manage his investments. Such dealer/portfolio manager(s) must have sole discretion over trading or acquisition in Fiorillo's accounts. Further, Fiorillo is permitted to have annual discussions with such dealer/portfolio manager(s) solely for the purpose of conveying general investment objectives, suitability information, and risk tolerance. We will not permit Fiorillo to have discussions with his dealer/portfolio manager(s), which could provide him with direction or control over the selection of specific securities.

[58] As the Commission determined in *Landen:* "[w]e do not find it appropriate to provide a more general trading carve-out. In our view, a person who commits a

serious insider trading offence should have limited rights to trade securities in the future."[18] In our view, the carve-outs determined by the Panel for Fiorillo are appropriate and necessary to prevent future harm and provide deterrence. For the purposes of the carve-outs sought by Fiorillo, our message is clear: if you are found to have engaged in illegal insider trading, you will be denied access to the market.

3. Disgorgement and Administrative Penalties

[59] Staff submits that Fiorillo ought to disgorge $175,138, representing amounts obtained by him as a result of his illegal conduct. Staff also requests that the Commission order Fiorillo to pay administrative penalties totalling $500,000 in respect of three instances of insider trading, contrary to subsection 76(1) of the Act.

[60] Fiorillo argues that an administrative penalty of $227,493, or one and one half times the profit earned, is more appropriate. Fiorillo also submits that an order that he disgorge $151,662 would take into account his options trading, which includes a loss on HudBay securities.

[61] For the same reasons articulated above with respect to Wing, we are not prepared to offset Fiorillo's profit obtained through breaches of the Act by losses on stocks or options trading. We find it appropriate to order that he disgorge the full amount of $175,138 obtained as a result of his non-compliance with the Act.

[62] We find that administrative penalties totalling $350,000 for Fiorillo's breaches of subsection 76(1) of the Act are appropriate. Fiorillo engaged in multiple serious breaches of the Act by trading with knowledge of material facts that were generally undisclosed in respect of three reporting issuers. At the time of his misconduct, Fiorillo was registered with the Commission. However, Fiorillo did not attempt to conceal his trading, he did not have the same elevated responsibility of a UDP or CCO, and he had fewer breaches than Wing and Pollen combined. We determine that an amount of approximately two times the profit earned from his misconduct ought to be ordered against him.

[63] In total, Fiorillo is ordered to disgorge $175,138 and to pay $350,000 in administrative penalties for his non-compliance with the Act.

D. Stephany

1. Specific Sanctioning Factors

[64] Stephany was a registrant, an experienced market participant and was moderately active in the marketplace. She made a modest profit in the amount of $7,511, as a result of her misuse of generally undisclosed material facts. In addition, she engaged in conduct contrary to the public interest in recommending to her client that he buy securities and in executing orders to purchase those securities with knowledge of the undisclosed material facts received from Agueci.

[18] *Landen, supra* at para. 63.

[65] It is evident in Stephany's case that this proceeding has had a significant impact on her livelihood. Her affidavit states that she left the securities industry in pursuit of higher education and that she has had difficulty in gaining meaningful employment since being terminated, as a result of being named as a respondent in this proceeding. She attested to the fact that she has no intention to return to the investment industry and notes that it is unlikely that her future income will ever approach the levels previously earned.

[66] We accept Stephany's evidence that she has limited ability to pay at this time and consider it to be a mitigating factor for her. As a result, we will take into account the financial pain that the size of any financial sanction could reasonably cause her.

[67] We also accept that Stephany showed recognition of the seriousness of her improprieties and appears to have some remorse regarding findings with respect to her conduct.

2. Market Prohibitions

[68] Staff seeks prohibitions against Stephany with respect to: (i) trading and acquisition of securities, for 15-20 years; (ii) exemptions availabile under Ontario securities law, permanently; (iii) her ability to become or act as an officer or director of any reporting issuer, for 15-20 years; (iv) her ability to become or act as an officer or director of any reporting issuer, a registrant or an investment fund manager, permanently; and (v) her ability to be a registrant, investment fund manager or promoter, permanently.

[69] Stephany takes the position that more appropriate prohibitions would include a carve-out from the trading and acquisition bans. At the Sanctions and Costs Hearing, Staff and Stephany jointly filed proposed terms for this carve-out. We determined that the terms of the carve-out from trading and acquisition bans that are permitted to Stephany should be consistent with the comparable carve-outs permitted to the other Respondents and may include mutual fund securities, which securities include index-fund securities, and exchange-traded securities, GICs and government bonds, but not "bonds" generally.

[70] Having considered the sanctioning factors applicable to Stephany, we find that market prohibitions for a period of 15 years would serve to protect the public as well as to deter Stephany and like-minded registrants from engaging in similar abuses of our capital markets. As a result, we agree with Staff's submissions that the type and term of market prohibitions sought are proportionate and preventative, subject to the same limited carve-out permitted to the other Respondents, for purposes of retirement and tax planning, in particular types of securities. Similarly, the trading and acquisition carve-out detailed in our order shall be available to Stephany only upon full payment of the administrative penalties, disgorgement and costs ordered against her.

3. Disgorgement and Administrative Penalties

[71] Staff submits that Stephany ought to disgorge $7,511, representing amounts obtained by her as a result of her illegal conduct. Staff also requests that the Commission order Stephany to pay administrative penalties totaling $30,000

representing three instances of insider trading, contrary to subsection 76(1) of the Act.

[72] Stephany does not take issue with the disgorgement order sought, but argues that an administrative penalty of $7,511, equal to the disgorgement order would be appropriate in her circumstances.

[73] We find that administrative penalties totalling $15,000 in respect of Stephany's breaches of subsection 76(1) of the Act would be commensurate with her conduct and circumstances. Stephany, like Fiorillo, engaged in multiple serious breaches of the Act by trading with knowledge of material facts that were generally undisclosed in respect of three reporting issuers. At the time of her misconduct, she, too, was registered with the Commission. However, she did not have the same elevated responsibility of a UDP, and she had fewer breaches than Wing and Pollen combined. Stephany's livelihood was also significantly impacted by her misconduct. We determine that an amount of approximately two times the profit earned from her misconduct ought to be ordered against her.

[74] In total, Stephany is ordered to disgorge $7,511 and to pay $15,000 in administrative penalties for her non-compliance with the Act.

VI. REPRIMANDS

[75] We hereby reprimand each of Eda Marie Agueci, Dennis Wing, Henry Fiorillo, Kimberley Stephany, and Pollen Services Limited for their respective conduct in violation of Ontario securities law.

VII. COSTS

[76] The Commission has discretion to order a person or company to pay the costs of an investigation and hearing if the Commission is satisfied that the person or company has not complied with the Act or has not acted in the public interest (section 127.1 of the Act). We considered the factors in Rule 18.2 of the Commission's *Rules of Procedure* and the factors cited in the *Ochnik* decision in exercising our discretion to order costs.[19]

[77] Staff seeks total costs in the amount of $675,000, inclusive of fees and disbursements, reflecting time spent investigating and litigating the matter by two Staff members in each phase, a litigation counsel and forensic accountant. Staff submits that the total costs sought takes into account the fact that some allegations were not ultimately proven by including a 50% discount. Staff also submits that the costs should be apportioned among the Respondents based on the number of allegations proven against them, in the following manner:

(a) Agueci to pay costs of $309,375 for 11 findings made against her;

(b) Wing/Pollen to pay costs, jointly and severally, of $196,875 for 7 findings made against them;

[19] The Commission's *Rules of Procedure,* (2014) 37 O.S.C.B. 4168; *Re Ochnik* (2006), 29 O.S.C.B. 5917 at para. 29.

(c) Fiorillo to pay costs of $84,375 for 3 findings made against him; and

(d) Stephany to pay costs of $84,375 for 3 findings made against her.

[78] Agueci and Fiorillo submit that Staff was only successful in proving 40% of the allegations, such that costs should be reduced by 60%, rather than 50%. Agueci submits that she did not participate and is not responsible for the length of the hearing, or manner by which Staff adduced evidence, and that she should pay no more than $50,000. Fiorillo takes issue with the description of tasks in Staff's Bill of Costs as being overly generic and submits that his proportionate share of costs is $68,512.50.

[79] Wing takes the position that Staff's request for costs includes both costs for individuals and matters outside of the proceeding and excessive time for preparation. Wing further argues that the costs sought fail to acknowledge: (i) that costs for one counsel are acceptable; (ii) the unnecessary length of the hearing; (iii) the allegations that were dismissed; (iv) Wing had no involvement in allegations against other respondents; and (v) Pollen did not participate in the hearing.

[80] Stephany submits that an award of costs is discretionary. She notes that given her modest financial circumstances, modest hopes for employment and income, considered with the disgorgement and administrative penalties to be ordered against her, the quantum of costs against her should be in the $12,500 range.

[81] The total costs incurred, of approximately $2.7 million, include five Staff members engaged in the investigative stage and seven engaged in the litigation phase of the matter. Staff reduced the costs to account for only one litigation counsel and one forensic accountant for each phase and discounted certain disbursements, which reduced the total costs to approximately $1.5 million. Staff then further reduced that amount by deducting $200,000 in costs received from a settlement and further applied a 50% discount to account for the fact that some allegations were not ultimately proven. We find this reduced global amount of $675,000 to be a reasonable and conservative calculation by Staff.

[82] The panel is satisfied that Staff has provided sufficiently comprehensive dockets in support of the costs sought.

[83] This was a complex matter, involving a myriad of merger and acquisition transactions and two Respondents who misled Staff, which lengthened the investigation. We do not find that Staff unnecessarily lengthened the hearing process. In our view, it is incumbent on both sides to facilitate hearing efficiency. Staff proposed to file exhibits at the beginning of the hearing and certain of the Respondents' counsels argued that any document that was not specifically spoken to should be removed, so Staff was required to lay out each document to be tendered. It would have been helpful to the Panel, and likely more efficient, if all parties had approached the process in a more collaborative manner.

[84] We note that Agueci and Wing did not cooperate with Staff throughout the investigation. Wing did not admit to having a Swiss account, even when confronted with evidence to the contrary, all of which contributed unnecessarily

to higher costs. Furthermore, while Agueci and Pollen did not participate in the merits hearing, they also did not contribute to a more efficient process by admitting undisputed facts, for instance. As a result, we have assigned a greater amount of the costs to Agueci, Wing and Pollen.

[85] Fiorillo and Stephany cooperated during the investigation and presented their cases efficiently at the hearings, which assisted the Panel in its deliberations. We note, for instance, that Fiorillo cooperated with the Commission in providing financial disclosure to facilitate assessment of appropriate sanctions. We are also mindful that Stephany's ability to pay costs is extremely limited on the evidence before us.

[86] It was the illegal conduct of the Respondents that gave rise to this proceeding and we have concluded that it is appropriate to order the payment of costs in the total amount of $675,000. Based on factors in Rule 18.2 of the Commission's *Rules of Procedure* and the factors cited in the *Ochnik* decision, we apportion the costs as follows:

(a) Agueci shall pay costs of $300,000;

(b) Wing and Pollen shall pay costs, jointly and severally, of $300,000;

(c) Fiorillo shall pay costs of $50,000; and

(d) Stephany shall pay costs of $25,000.

VIII. CONCLUSION

[87] We determine that the following sanctions reflect the seriousness of the securities law violations that occurred in this matter and that they will protect the public and serve to deter the Respondents and like-minded individuals from engaging in future conduct that would harm the capital markets. Accordingly, we conclude that the following sanctions are appropriate and proportionate to the circumstances and conduct of each of the Respondents and that it is in the public interest to make these orders:

1. With respect to Agueci:

    (a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Agueci shall cease permanently, except that Agueci shall be permitted to trade:

        i. mutual funds, exchange-traded funds, government bonds and/or guaranteed investment certificates ("GICs") for the account of any registered retirement savings plan ("RRSP"), registered retirement income fund ("RRIF") and tax free savings account ("TFSA"), as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended (the "Income Tax Act"), in which Agueci has sole legal and beneficial ownership;

        ii. solely through a registered dealer in Ontario, to whom Agueci must have given a copy of the order; and

iii. only after the amounts ordered in subparagraphs 1(g) and 1(h) have been paid in full;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Agueci is prohibited permanently, except that Agueci shall be permitted to acquire:

i. mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which Agueci has sole legal and beneficial ownership; and

ii. solely through a registered dealer in Ontario, to whom Agueci must have given a copy of the order;

iii. only after the amounts ordered in subparagraphs 1(g) and 1(h) have been paid in full;

(c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Agueci permanently;

(d) pursuant to clause 6 of subsection 127(1) of the Act, Agueci is reprimanded;

(e) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Agueci is prohibited permanently from becoming or acting as a director or an officer of any reporting issuer, registrant or investment fund manager;

(f) pursuant to clause 8.5 of subsection 127(1) of the Act, Agueci is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(g) pursuant to clause 9 of subsection 127(1) of the Act, Agueci shall pay administrative penalties in the total amount of $350,000 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

(h) pursuant to section 127.1 of the Act, Agueci shall pay the amount of $300,000 in respect of part of the costs of the Commission's investigation and hearing;

2. With respect to Wing and Pollen:

(a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by each of Wing and Pollen shall cease permanently, except that Wing shall be permitted to trade:

i. mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as

defined in the Income Tax Act, in which Wing has sole legal and beneficial ownership;

ii. solely through a registered dealer in Ontario, to whom Wing must have given a copy of the order; and

iii. only after the amounts ordered in subparagraphs 2(h), 2(i), 2(j) and 2(k) have been paid in full;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by each of Wing and Pollen is prohibited permanently, except that Wing shall be permitted to acquire:

i. mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which Wing has sole legal and beneficial ownership; and

ii. solely through a registered dealer in Ontario, to whom Wing must have given a copy of the order;

iii. only after the amounts ordered in subparagraphs 2(h), 2(i), 2(j) and 2(k) have been paid in full;

(c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to each of Wing and Pollen permanently;

(d) pursuant to clause 6 of subsection 127(1) of the Act, each of Wing and Pollen is reprimanded;

(e) pursuant to clauses 7 and 8.1 of subsection 127(1) of the Act, Wing shall resign any position that he holds as a director or an officer of any reporting issuer or registrant;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Wing is prohibited permanently from becoming or acting as a director or an officer of any reporting issuer, registrant or investment fund manager;

(g) pursuant to clause 8.5 of subsection 127(1) of the Act, Wing is 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, Wing and Pollen shall jointly and severally pay administrative penalties in the total amount of $1,500,000 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(i) pursuant to clause 9 of subsection 127(1) of the Act, Wing shall pay an administrative penalty in the amount of $250,000 to the

Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to clause 10 of subsection 127(1) of the Act, Wing and Pollen shall jointly and severally disgorge the amount of $520,916 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

(k) pursuant to section 127.1 of the Act, Wing and Pollen shall jointly and severally pay the amount of $300,000 in respect of part of the costs of the Commission's investigation and hearing;

3. With respect to Fiorillo:

(a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Fiorillo shall cease for 15 years;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Fiorillo is prohibited for 15 years;

(c) as exceptions to the 15-year prohibitions in respect of trading and acquisition of securities ordered in subparagraphs 3(a) and 3(b) above, only after the amounts ordered in subparagraphs 3(j), 3(k) and 3(l) have been paid in full, Fiorillo shall be permitted:

i. for a period of six months from the date of the order, for the sole purpose of liquidating all securities held in accounts over which Fiorillo exercises direction and control:
   1. to trade or acquire put/call options for the sole purpose of flattening existing positions, such that at the end of the six-month period he will have no outstanding exposure to options;
   2. to exercise any options that expire within the six-month period and trade or acquire the related stock position as necessary; and
   3. to trade any other securities;

ii. to trade and/or acquire mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which Fiorillo has sole legal and beneficial ownership, solely through a registered dealer in Ontario, to whom Fiorillo must have given a copy of the order;

(d) as a further exception to the 15-year prohibitions in respect of trading and acquisition of securities ordered in subparagraphs 3(a) and 3(b) above, after the amounts ordered in subparagraphs 3(j), 3(k) and 3(l) have been paid in full, Fiorillo shall be permitted to retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with

Ontario securities law, to manage Fiorillo's securities holdings, provided that:

1. the respective registered dealer/portfolio manager(s) is provided with a copy of the order prior to trading or acquiring securities on Fiorillo's behalf;
2. the respective registered dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Fiorillo has no direction or control over the selection of specific securities;
3. Fiorillo is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Fiorillo providing information regarding general investment objectives, suitability and risk tolerance or as required under Ontario securities law; and
4. Fiorillo may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Fiorillo within 30 days of making such change;

(e) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Fiorillo for 15 years;

(f) pursuant to clause 6 of subsection 127(1) of the Act, Fiorillo is reprimanded;

(g) pursuant to clause 7 of subsection 127(1) of the Act, Fiorillo shall resign any position that he holds as a director or an officer of any reporting issuer;

(h) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Fiorillo is prohibited for 15 years from becoming or acting as a director or an officer of any reporting issuer, registrant or investment fund manager;

(i) pursuant to clause 8.5 of subsection 127(1) of the Act, Fiorillo is prohibited for 15 years from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(j) pursuant to clause 9 of subsection 127(1) of the Act, Fiorillo shall pay administrative penalties in the total amount of $350,000 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to clause 10 of subsection 127(1) of the Act, Fiorillo shall disgorge the amount of $175,138 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

(l) pursuant to section 127.1 of the Act, Fiorillo shall pay the amount of $50,000 in respect of part of the costs of the Commission's investigation and hearing.

4. With respect to Stephany:

(a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Stephany shall cease for 15 years, except that Stephany shall be permitted to trade in:
   i. mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which Stephany has sole legal and beneficial ownership;
   ii. solely through a registered dealer in Ontario, to whom Stephany must have given a copy of the order; and
   iii. only after the amounts ordered in subparagraphs 4(g), 4(h) and 4(i) have been paid in full;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Stephany is prohibited for 15 years except that Stephany shall be permitted to acquire:
   i. mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which Stephany has sole legal and beneficial ownership;
   ii. solely through a registered dealer in Ontario, to whom Stephany must have given a copy of the order; and
   iii. only after the amounts ordered in subparagraphs 4(g), 4(h) and 4(i) have been paid in full;

(c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Stephany for 15 years;

(d) pursuant to clause 6 of subsection 127(1) of the Act, Stephany is reprimanded;

(e) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Stephany is prohibited for 15 years from becoming or acting as a director or an officer of any reporting issuer, registrant or investment fund manager;

(f) pursuant to clause 8.5 of subsection 127(1) of the Act, Stephany is prohibited for 15 years from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(g) pursuant to clause 9 of subsection 127(1) of the Act, Stephany shall pay administrative penalties in the total amount of $15,000 to

the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(h) pursuant to clause 10 of subsection 127(1) of the Act, Stephany shall disgorge the amount of $7,511 to the Commission, which shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

(i) pursuant to section 127.1 of the Act, Stephany shall pay the amount of $25,000 in respect of part of the costs of the Commission's investigation and hearing.

[88] We will issue a separate order giving effect to our decision on sanctions and costs.

Dated at Toronto this 24th day of June, 2015.

"Edward P. Kerwin"

_____

Edward P. Kerwin

"AnneMarie Ryan"

_____

AnneMarie Ryan

"Deborah Leckman"

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Deborah Leckman