



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF  
THE *SECURITIES ACT*, RSO 1990, c S.5**

**- AND -**

**IN THE MATTER OF  
GARTH H. DRABINSKY, MYRON I. GOTTLIEB  
and GORDON ECKSTEIN**

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

**WHEREAS:**

1. On February 20, 2013, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing in relation to an Amended Statement of Allegations issued by Staff of the Commission ("**Staff**") regarding Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein (collectively, the "**Respondents**"), setting March 19, 2013 as the hearing date;
2. On March 19, 2013, the Commission convened a hearing and ordered that the matter be adjourned to a confidential pre-hearing conference on May 23, 2013;
3. On May 23, 2013, a confidential pre-hearing conference was held, at which counsel for Staff and counsel for each of the Respondents attended;
4. On September 8, 2014, a confidential pre-hearing conference was held, at which counsel for Staff and counsel for each of the Respondents attended. The Commission adjourned the matter to a further confidential pre-hearing conference on December 2, 2014, set the hearing dates and ordered a schedule for delivery of the parties' expert evidence, witness lists, witness summaries and hearing briefs;
5. On September 9, 2014, the Commission approved the settlement agreement reached between Staff and Gottlieb;

6. On December 2, 2014, a confidential pre-hearing conference was held, at which counsel for Staff, counsel for Drabinsky and counsel for Eckstein attended, and all parties agreed to adjourn the matter to a further confidential pre-hearing conference to be held at a later-scheduled date;
7. On April 7, 2015, a confidential pre-hearing conference was commenced, at which counsel for each of Staff, Drabinsky and Eckstein attended;
8. On April 23 and May 6, 2015, the confidential pre-hearing conference was continued, counsel for each of Staff and Drabinsky attended, and Drabinsky requested that the scheduled hearing be adjourned;
9. On May 22, 2015, the Commission issued an Order approving the Settlement Agreement between Staff and Eckstein dated April 20, 2015;
10. On May 25, 2015, the Commission adjourned the matter to a further confidential pre-hearing conference on September 24, 2015, vacated the previous hearing dates, set new hearing dates and ordered a revised schedule for delivery of the parties' expert evidence, witness lists, witness summaries and hearing briefs;
11. On September 24, 2015, a confidential pre-hearing conference was held, at which counsel for Staff and counsel for Drabinsky attended, and Drabinsky requested that the scheduled hearing be adjourned to a later date;
12. On September 29, 2015, the Commission adjourned the matter to a further confidential pre-hearing conference on February 22, 2016, vacated the previous hearing dates, set new hearing dates and ordered a revised schedule for delivery of the parties' expert evidence, witness lists, witness summaries and hearing briefs;
13. On February 22, 2016, a confidential pre-hearing conference was held, at which counsel for Staff and counsel for Drabinsky attended, and Drabinsky again requested that the hearing scheduled in this matter be adjourned to a later date. The Commission adjourned the matter to a further confidential pre-hearing conference on June 20, 2016, vacated the previous hearing dates, set new

hearing dates and ordered a revised schedule for delivery of the parties' expert evidence, witness lists, witness summaries and hearing briefs;

14. Staff requested, on consent, that the pre-hearing conference scheduled to take place on June 20, 2016 be rescheduled to June 27, 2016;
15. On June 27, 2016, a confidential pre-hearing conference was held, at which Staff and counsel for Drabinsky attended, and Drabinsky again requested that the hearing scheduled in this matter be adjourned to a later date. The Commission adjourned the matter to a further confidential pre-hearing conference on November 22, 2016, vacated the previous hearing dates, set new hearing dates for the matter to be heard on February 22, 23, 24, 27 and 28, 2017 and March 10, 2017 and ordered a revised schedule for delivery of the parties' expert evidence, witness lists, witness summaries and hearing briefs;
16. Drabinsky continues to be subject to an interim undertaking made to the Director of Enforcement of the Commission (the "**Director**") providing that, pending the conclusion of the Commission proceeding, he will not apply to become a registrant or an employee of a registrant or an 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;
17. Drabinsky continued to be subject to parole terms in effect until September 2016 (the "**Parole Terms**") which prohibited him from owning or operating a business or being in a position of responsibility for the management of finances or investments of any other individual, charity, business or institution, among other things;
18. Upon expiry of the Parole Terms, and as a condition of the adjournment sought on June 27, 2016, Drabinsky agreed to the following terms until the conclusion of the Commission proceeding:
  - a. He will not own or operate a business; and

- b. He will not be in a position that would entail the management, control or administration of finances or investments of any other individual, charity, business or institution;
19. On November 22, 2016, a confidential pre-hearing conference was held, at which Staff and counsel for Drabinsky attended;
20. On January 10, 2017, a confidential pre-hearing conference was held, at which Staff and counsel for Drabinsky attended;
21. On February 22, 2017, the hearing commenced and continued on February 23 and 24, 2017;
22. On February 27, 2017, the Commission ordered that the further hearing dates were vacated and oral closing submissions shall be heard on a date to be determined by the Commission;
23. On March 3, 2017, the Commission ordered that:
  - a. Staff's written submissions shall be served and filed on or before March 13, 2017;
  - b. The Respondent's written submissions shall be served and filed on or before March 21, 2017;
  - c. Staff's reply written submissions, if any, shall be served and filed on or before March 31, 2017; and
  - d. Oral closing submissions shall be heard on April 12, 2017 at 10:00 a.m., or such other date as may be agreed to by the parties and set by the Office of the Secretary;
24. On March 13, 2017, Staff filed written submissions
25. On March 15, 2017, Drabinsky filed motion materials regarding Staff's written submissions. Drabinsky's motion was heard *in camera* on March 17, 2017 (the "**In Camera Motion**");

26. The Commission is of the opinion that the desirability of avoiding disclosure of the documents filed in respect of the *In Camera* Motion outweighs the desirability of adhering to the principle that members of the public are entitled to reasonable access to those documents; and
27. The Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED** that:

1. Pursuant to subsection 9(1.1) of the *Statutory Powers Procedure Act*, RSO 1990, c S.22, and Rule 5.2 of *Ontario Securities Commission Rules of Procedure* (2014), 37 OSCB 4168, Staff materials filed on March 13, 2017, all materials filed with the Commission in respect of the *In Camera* Motion and the transcript thereof shall be kept confidential;
2. Staff's written submissions shall be amended, reserved and refiled;
3. The Respondent's written submissions shall be served and filed on or before April 13, 2017;
4. Staff's reply written submissions, if any, shall be served and filed on or before April 19, 2017;
5. The hearing date of April 12, 2017 is vacated; and
6. Oral closing submissions in respect of the hearing in this matter shall be heard on April 24, 2017 at 10:00 a.m., or such other date as may be agreed to by the parties and set by the Office of the Secretary.

**DATED** at Toronto this 4th day of April, 2017.

*"D. Grant Vingoe"*

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D. Grant Vingoe

*"Judith N. Robertson"*

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Judith N. Robertson

*"William J. Furlong"*

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William J. Furlong