



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

---

Citation: Inverlake (Re), 2018 ONSEC 35  
Date: June 22, 2018  
File No. 2018-22

**IN THE MATTER OF  
INVERLAKE PROPERTY INVESTMENT GROUP INC.,  
WHEATLAND BUSINESS PARK LTD.,  
and ALFREDO MIGUEL "MICHAEL" YONG**

**REASONS AND DECISION  
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5)**

**Hearing:** In Writing

**Decision:** June 22, 2018

**Panel:** Robert P. Hutchison                      Commissioner

**Appearances:** Christina Galbraith                      For Staff of the Commission  
Peter Kott

No hearing briefs or written submissions were filed by or on behalf of Inverlake Property Investment Group Inc., Wheatland Business Park Ltd., or Alfredo Miguel "Michael" Yong

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	SERVICE AND PARTICIPATION .....	1
III.	BCSC FINDINGS AND SANCTIONS .....	2
	A.    The Parties.....	2
	B.    Yong and Inverlake – Breach of Section 61 of the BC Act.....	2
	C.    Yong and Wheatland – Breach of Section 61 of the BC Act .....	3
	D.    Yong – Breach of Section 168.2 of the BC Act .....	3
	E.    BCSC Sanctions .....	3
IV.	ANALYSIS AND DECISION .....	4
	A.    Subsection 127(10) of the Act.....	4
	B.    Subsection 127(1) of the Act .....	5
V.	DIFFERENCES BETWEEN BCSC ORDER AND PROPOSED ORDER .....	6
	A.    Exchange Contracts and Derivatives .....	6
	B.    “Acting in a management or consultative capacity” and “investor relations activities”.....	6
	C.    Proposed Investment Fund Manager Prohibition.....	6
VI.	CONCLUSION.....	7

## REASONS AND DECISION

### I. INTRODUCTION

- [1] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) requests that an order be issued against Inverlake Property Investment Group Inc. (**Inverlake**), Wheatland Business Park Ltd. (**Wheatland**) and Alfredo Miguel “Michael” Yong (**Yong**, together, the **Respondents**) pursuant to the inter-jurisdictional enforcement provisions in subsection 127(10) of the Act.<sup>1</sup>
- [2] Subsection 127(10) authorizes the Commission to make orders in the public interest under subsection 127(1) based on orders of other securities regulatory authorities. The Commission is not required to make an order similar to that made by another securities regulatory authority. Instead, the findings made by another securities regulatory authority stand as a determination of fact for the purposes of the Commission’s considerations under the Act. The Commission’s task is then to determine whether, based on those findings of fact, the sanctions proposed by Staff would be in the public interest in Ontario.<sup>2</sup>
- [3] On April 7, 2015, Yong and staff of the British Columbia Securities Commission (the **BCSC**) entered into an Agreed Statement of Facts (the **Agreed Statement**). In the Agreed Statement, Yong admitted that he, Inverlake and Wheatland breached the British Columbia *Securities Act*, RSBC 1996, c 418 (the **BC Act**). In April and June 2015, the BCSC held a hearing to consider whether the Respondents breached the BC Act and engaged in conduct contrary to the public interest.
- [4] In its findings on liability dated September 14, 2015, the BCSC panel held that each of the Respondents engaged in an illegal distribution contrary to section 61 of the BC Act.<sup>3</sup> In its sanctions decision dated August 3, 2016 (the **BCSC Order**), the BCSC panel ordered, among other things, minimum five-year market-access bans and a \$60,000 administrative penalty against Yong, as well as permanent market-access bans against Inverlake and Wheatland.<sup>4</sup>

### II. SERVICE AND PARTICIPATION

- [5] Staff brought this proceeding under the expedited procedure provided in Rule 11(3) of the Commission’s *Rules of Procedure*.<sup>5</sup>
- [6] The Respondents were served with the Notice of Hearing issued on April 24, 2018, the Statement of Allegations dated April 23, 2018 and Staff’s written submissions, hearing brief and brief of authorities. The Respondents Inverlake and Wheatland are dissolved corporate entities that were incorporated in Alberta.<sup>6</sup> Inverlake and Wheatland were served by delivering the materials to the last known addresses

---

<sup>1</sup> Ontario *Securities Act*, RSO 1990, s S.5 (the **Act**).

<sup>2</sup> *Euston Capital Corp (Re)* (2009), 32 OSCB 6313 at para 46; *JV Raleigh Superior Holdings Inc (Re)* (2013), 36 OSCB 4639 at para 16.

<sup>3</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at para 74.

<sup>4</sup> *Inverlake (Re)*, 2016 BCSECCOM 258 at para 73.

<sup>5</sup> *Ontario Securities Commission Rules of Procedure and Forms* (2017), 40 OSCB 8988 (the **Rules of Procedure**).

<sup>6</sup> Corporate Profile Reports re: Inverlake and Wheatland, Hearing Brief of Staff of the Commission, Tab 4.

and to the last known directors indicated on the corporate profile reports for each company.<sup>7</sup>

- [7] The Alberta *Business Corporations Act*, RSA 2000, c B-9 (the **ABCA**) authorizes administrative proceedings to be commenced against dissolved corporate entities if proceedings are commenced within two years of a corporation's dissolution.<sup>8</sup> Inverlake was dissolved on September 2, 2016 and Wheatland was dissolved on December 2, 2017.<sup>9</sup> Staff commenced this proceeding within the two-year period.
- [8] Although served, the Respondents did not file any hearing briefs or make any written submissions in this proceeding. The Commission may proceed in the absence of a party where that party has been given notice of the hearing.<sup>10</sup>

### **III. BCSC FINDINGS AND SANCTIONS**

#### **A. The Parties**

- [9] Inverlake was incorporated in Alberta for the purpose of acquiring and holding land in Alberta (the **Inverlake Property**). Inverlake never filed a prospectus under the BC Act.<sup>11</sup>
- [10] Wheatland was incorporated in Alberta for the purpose of acquiring and holding land in Wheatland County, Alberta (the **Wheatland Property**). Wheatland never filed a prospectus under the BC Act.<sup>12</sup>
- [11] Yong was the sole director of Inverlake and Wheatland. Yong was a resident of British Columbia until he moved to Alberta in late 2008.<sup>13</sup>

#### **B. Yong and Inverlake – Breach of Section 61 of the BC Act**

- [12] In late 2007 and early 2008, Yong raised money on behalf of Inverlake primarily from residents of British Columbia to acquire the Inverlake Property. Investors purchased shares of Inverlake for \$39,000 per share, which entitled the shareholder to a beneficial interest in one acre of Inverlake Property.<sup>14</sup>
- [13] Yong prepared a marketing document he called a prospectus, which was not a prospectus as defined in the BC Act. Yong used this marketing document to promote and sell shares in the Inverlake Property.<sup>15</sup>
- [14] After Inverlake acquired the Inverlake Property, the value of the land decreased significantly. Yong stopped making mortgage payments on the Inverlake Property and, ultimately, the mortgage was foreclosed on. Yong admitted that neither he nor Inverlake notified any Inverlake investors about the foreclosure proceedings. Inverlake investors lost all of their investment.<sup>16</sup>

---

<sup>7</sup> Supplementary Affidavit of Service of Lee Crann sworn May 10, 2018.

<sup>8</sup> ABCA, s 227(2)(b).

<sup>9</sup> Corporate Profile Reports re: Inverlake and Wheatland, Hearing Brief of Staff of the Commission, Tab 4.

<sup>10</sup> *Statutory Powers Procedure Act*, RSO 1990 c S.22, s 7(2); *Rules of Procedure*, r 21(3).

<sup>11</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at para 6.

<sup>12</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at para 7.

<sup>13</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at para 8.

<sup>14</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 25 and 26.

<sup>15</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 27 and 28.

<sup>16</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 41, 44-46; *Inverlake (Re)*, 2016 BCSECCOM 258 at para 57.

[15] Yong admitted and the BCSC panel held that Yong and Inverlake engaged in an illegal distribution of Inverlake securities to 23 investors for a total of \$910,650, in contravention of section 61 of the BC Act.<sup>17</sup>

**C. Yong and Wheatland – Breach of Section 61 of the BC Act**

[16] In July and August 2008, Yong raised money on behalf of Wheatland primarily from residents of British Columbia to acquire the Wheatland Property. Similar to Inverlake, Yong promoted and sold shares in Wheatland for \$53,000 per share, which entitled investors to an ownership interest in one acre of the Wheatland Property.<sup>18</sup>

[17] Yong admitted and the BCSC panel held that Yong and Wheatland engaged in an illegal distribution of Wheatland securities to 15 investors<sup>19</sup> for a total of \$1,090,479, in contravention of section 61 of the BC Act.<sup>20</sup>

**D. Yong – Breach of Section 168.2 of the BC Act**

[18] Yong admitted that as the sole director of Inverlake and Wheatland, he breached section 168.2 of the BC Act for each company's contravention of British Columbia securities law.<sup>21</sup>

**E. BCSC Sanctions**

[19] The BCSC panel imposed an administrative penalty of \$60,000 and the following sanctions on Yong, for a period ending on the later of the date that Yong pays the administrative penalty and August 3, 2021:

- a. Yong cease trading in, and is prohibited from purchasing, any securities or exchange contracts, except that he may trade for his own account through a registrant, provided that a copy of the BCSC Order is provided to that registrant;
- b. the exemptions set out in the BC Act, the regulations or any decision as defined in the BC Act, do not apply to Yong;
- c. Yong resign any positions he holds as, and is prohibited from becoming or acting as, a director or officer of any issuer or registrant, except that he may act as a director or officer of any issuer all of the securities of which are beneficially owned by Yong or members of his immediate family;
- d. Yong is prohibited from becoming or acting as a registrant or promoter;
- e. Yong is prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
- f. Yong is prohibited from engaging in investor relations activities.<sup>22</sup>

[20] The BCSC panel imposed sanctions on Inverlake to the following effect:

- a. all persons permanently cease trading in and are permanently prohibited from purchasing any securities of Inverlake;

---

<sup>17</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 67 and 74.

<sup>18</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 47-48.

<sup>19</sup> Yong and Wheatland only admitted contravening section 61 with respect to 14 of the 15 investors.

<sup>20</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at paras 67 and 74.

<sup>21</sup> *Inverlake (Re)*, 2015 BCSECCOM 348 at para 76.

<sup>22</sup> *Inverlake (Re)*, 2016 BCSECCOM 258 at para 73.

- b. Inverlake cease trading in, and is permanently prohibited from purchasing, any securities or exchange contracts;
- c. the exemptions set out in the BC Act, the regulations or any decision as defined in the BC Act, do not apply to Inverlake;
- d. Inverlake is permanently prohibited from becoming or acting as a registrant or promoter;
- e. Inverlake is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
- f. Inverlake is permanently prohibited from engaging in investor relations activities.<sup>23</sup>

[21] The BCSC panel imposed sanctions on Wheatland to the following effect:

- a. all persons permanently cease trading in and are permanently prohibited from purchasing any securities of Wheatland;
- b. Wheatland cease trading in, and is permanently prohibited from purchasing, any securities or exchange contracts;
- c. the exemptions set out in the BC Act, the regulations or any decision as defined in the BC Act, do not apply to Wheatland;
- d. Wheatland is permanently prohibited from becoming or acting as a registrant or promoter;
- e. Wheatland is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
- f. Wheatland is permanently prohibited from engaging in investor relations activities.<sup>24</sup>

#### **IV. ANALYSIS AND DECISION**

[22] Staff seeks an order pursuant to subsections 127(10) and (1) of the Act imposing trading and market-access bans that substantially mirror those imposed by the BCSC.

[23] The issues for this Panel to consider are:

- a. whether one or more of the circumstances under subsection 127(10) of the Act apply to the Respondents; and, if so,
- b. whether the Commission should exercise its public interest jurisdiction to make an order pursuant to subsection 127(1) of the Act.

##### **A. Subsection 127(10) of the Act**

[24] Subsection 127(10) of the Act does not itself empower the Commission to make an order; rather, it provides a basis for an order under subsection 127(1). This provision facilitates the cross-jurisdictional enforcement of decisions by allowing

---

<sup>23</sup> *Inverlake (Re)*, 2016 BCSECCOM 258 at para 73.

<sup>24</sup> *Inverlake (Re)*, 2016 BCSECCOM 258 at para 73.

the Commission to issue protective, preventive and prospective orders to ensure that misconduct that has taken place in another jurisdiction will not be repeated in Ontario's capital markets.

- [25] Paragraph 127(10)(4) provides for inter-jurisdictional enforcement where a person or company is subject to an order made by a securities regulatory authority that imposes sanctions, conditions or requirements on the person or company.
- [26] The Respondents are subject to an order made by the BCSC, a securities regulatory authority, that imposes sanctions, conditions, restrictions or requirements. Accordingly, the threshold set out in paragraph 4 of subsection 127(10) is met.

#### **B. Subsection 127(1) of the Act**

- [27] The threshold having been met under paragraph 4 of subsection 127(10) of the Act, the Panel must determine what sanctions, if any, should be ordered against the Respondents pursuant to subsection 127(1).
- [28] Subsection 127(1) empowers the Commission to make orders where it is in the public interest to do so. The Commission is not required to make an order similar to that made by the originating jurisdiction. Rather, the Panel must first satisfy itself that an order for sanctions is necessary to protect the public interest in Ontario and then consider what the appropriate sanctions should be.
- [29] Orders made under subsection 127(1) of the Act are "protective and preventive" and are made to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets.<sup>25</sup>
- [30] The Commission must make its own determination of what is in the public interest. It is also important that the Commission be aware of and responsive to an interconnected, inter-provincial securities industry. The threshold for reciprocity is low.<sup>26</sup> A low threshold is supported by the principle found in section 2.1 of the Act, which provides that "[t]he integration of capital markets is supported and promoted by the sound and responsible harmonization and co-ordination of securities regulation regimes."
- [31] In determining the nature and scope of sanctions to be ordered, the Commission can consider a number of factors, including the seriousness of the conduct, specific and general deterrence, and any mitigating factors.<sup>27</sup> The Respondents' conduct would have constituted a breach of the Act in Ontario. The illegal distributions would have been contrary to the public interest in Ontario and would attract the same or similar sanctions in Ontario. While it is a mitigating factor that the contraventions of the BC Act were admitted by Yong, the conduct was serious and investors were harmed.
- [32] Having read the findings and sanctions ordered by the BCSC, and having regard to the Agreed Statement, the Panel is of the view that these findings support the making of an interjurisdictional order in substantially the form requested by Staff, which includes time-limited market-access bans against Yong and permanent

---

<sup>25</sup> *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37, [2001] 2 SCR 132 at paras 42-43.

<sup>26</sup> *JV Raleigh Superior Holdings Inc (Re)* (2013), 36 OSCB 4639 at para 21.

<sup>27</sup> *Belteco Holdings Inc (Re)* (1998), 21 OSCB 7743 at paras 23-25; *MCJC Holdings* (2002), 25 OSCB 1133 at paras 25-26.

market-access bans against Inverlake and Wheatland. In this way, the Ontario markets will be protected from the Respondents and the Respondents and like-minded persons will be deterred from engaging in similar abuses in the future.

## **V. DIFFERENCES BETWEEN BCSC ORDER AND PROPOSED ORDER**

### **A. Exchange Contracts and Derivatives**

[33] The BC Act empowers the BCSC to order prohibitions relating to “exchange contracts,” which, generally speaking, are defined as futures contracts or options that are traded on an exchange.<sup>28</sup> The Commission has stated that such exchange contracts would likely be classified as “commodity futures contracts” or “commodity futures options” under the *Commodity Futures Act*, which are excluded from the definitions of “security” and “derivative” in the Act.<sup>29</sup>

[34] Staff has not requested an order under the *Commodity Futures Act*. Instead, Staff proposes that the Panel extend its order to include prohibitions on trading “derivatives,” as defined in the Act. Extending the order to include derivatives in this case will provide greater protection to Ontario’s capital markets. In addition, the Commission has stated that because some futures contracts may be derivatives, it is appropriate in these circumstances for inter-jurisdictional orders to prohibit trading in both securities and derivatives.<sup>30</sup>

### **B. “Acting in a management or consultative capacity” and “investor relations activities”**

[35] The BC Act empowers the BCSC to order prohibitions against “acting in a management or consultative capacity” and engaging in “investor relations activities.”<sup>31</sup> The BC Act provides a definition for “investor relations activities” but is silent on what qualifies as “acting in a management or consultative capacity.” Neither phrase appears in the Act.

[36] The Commission has held that many, but not all, of these types of activities will be captured by bans from acting as a director or officer of an issuer or registrant and from acting as a registrant or promoter.<sup>32</sup>

[37] The proposed order prohibits Yong from becoming or acting as a director or officer of any issuer or registrant and would prohibit all of the Respondents from becoming or acting as a registrant or promoter.

### **C. Proposed Investment Fund Manager Prohibition**

[38] The BCSC Order banned the respondents from becoming or acting as a registrant or promoter.<sup>33</sup> The order proposed by Staff includes bans on becoming or acting as a registrant, investment fund manager or promoter.

---

<sup>28</sup> BC Act, ss 1(1) and 161(1)(b).

<sup>29</sup> *Cook (Re)* (2018), 41 OSCB 1497, 2018 ONSEC 6 at para 12; *Commodity Futures Act*, RSO 1990, c C.20, s 1(1); Act, s 1(1).

<sup>30</sup> *Cook (Re)* (2018), 41 OSCB 1497, 2018 ONSEC 6 at para 13.

<sup>31</sup> BC Act, ss 161(1)(d)(iv) and (v).

<sup>32</sup> *Cook (Re)* (2018), 41 OSCB 1497, 2018 ONSEC 6 at para 14.

<sup>33</sup> *Inverlake (Re)*, 2016 BCSECCOM 258 at para 73.



[39] While a prohibition from becoming or acting as an investment fund manager is available under the Act, it is not available under the BC Act. However, the Commission has previously confirmed that term “registrant” includes an “investment fund manager.”<sup>34</sup> Accordingly, the prohibition requested by Staff, while appropriate, is unnecessary.

## **VI. CONCLUSION**

[40] For the reasons provided above, the following order will issue against Yong, until the later of the date that Yong pays the administrative penalty imposed by the BCSC and August 3, 2021:

- a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Yong cease, except that he may trade for his own account through a registrant, provided that a copy of the BCSC Order and a copy of the Order of this Commission are provided to that registrant;
- b. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Yong cease, except that he may purchase for his own account through a registrant, provided that a copy of the BCSC Order and a copy of the Order of this Commission are provided to that registrant;
- c. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Yong;
- d. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Yong resign any positions that he holds as a director or officer of any issuer or registrant, except that he may act as a director or officer of any issuer all of the securities of which are beneficially owned by Yong or members of his immediate family;
- e. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Yong be prohibited from becoming or acting as a director or officer of any issuer or registrant, except that he may act as a director or officer of any issuer all of the securities of which are beneficially owned by Yong or members of his immediate family; and
- f. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Yong be prohibited from becoming or acting as a registrant or promoter.

[41] The following order will issue against Inverlake:

- a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities of Inverlake cease permanently;
- b. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Inverlake cease permanently;
- c. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Inverlake cease permanently;
- d. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Inverlake permanently; and

---

<sup>34</sup> *Dhanani (Re)* (2017), 40 OSCB 4457, 2017 ONSEC 15 at para 14.

- e. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Inverlake be prohibited permanently from becoming or acting as a registrant or promoter.

[42] The following order will issue against Wheatland:

- a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities of Wheatland cease permanently;
- b. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Wheatland cease permanently;
- c. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Wheatland cease permanently;
- d. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Wheatland permanently; and
- e. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Wheatland be prohibited permanently from becoming or acting as a registrant or promoter.

Dated at Toronto this 22<sup>nd</sup> day of June, 2018.

"Robert P. Hutchison"  
Robert P. Hutchison