



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: Vincent George Byrne (Re), 2018 ONSEC 44

Date: 2018-09-06

File No.: 2018-47

**IN THE MATTER OF
VINCENT GEORGE BYRNE**

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

Hearing: In Writing

Decision: September 6, 2018

Panel: D. Grant Vingoe Vice-Chair and Chair of the Panel

Appearances: Christina Galbraith For Staff of the Commission

Donald C. Murray, Q.C. For Vincent George Byrne

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REASONS AND DECISION

I. INTRODUCTION

- [1] On February 8, 2018 Vincent George Byrne (**Byrne** or the **Respondent**) entered into a settlement agreement (the **Settlement Agreement**) with the Nova Scotia Securities Commission (the **NSSC**). Byrne admitted to breaching registration requirements under Nova Scotia securities legislation, and agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Nova Scotia. On February 28, 2018 Byrne became subject to an order of the NSSC (the **NSSC Order**).
- [2] On August 13, 2018 Staff of the Ontario Securities Commission (**Staff**) elected to bring a proceeding under the expedited procedure as set out in Rule 11(3) of the *Ontario Securities Commission Rules of Procedure and Forms*¹ relying on the inter-jurisdictional enforcement provision found in subsection 127(10) of the *Ontario Securities Act*² (the **Act**) to request that a protective order be issued in the public interest under subsection 127(1) of the Act.
- [3] On August 15, 2018 Byrne was served with a Notice of Hearing issued August 15, 2018, a Statement of Allegations dated August 13, 2018 and Staff's written submissions, hearing brief³ and book of authorities.
- [4] On August 27, 2018 counsel for Byrne filed a signed consent,⁴ consenting to an order in this matter.
- [5] The issues for me to consider are whether one of the circumstances under subsection 127(10) of the Act applies to Byrne, specifically, has he agreed to be subject to an order made by a securities regulatory authority imposing sanctions, conditions, restrictions or requirements, and if so, whether the Ontario Securities Commission should exercise its jurisdiction to make a protective order in the public interest pursuant to subsection 127(1) of the Act.

II. NSSC SETTLEMENT AGREEMENT AND ORDER

- [6] In the Settlement Agreement dated February 8, 2018, Byrne acknowledged and admitted the following:
- a. By having trading authority and by effecting trades in 16 client accounts, the Respondent acted as an adviser without being registered to do so, thereby violating section 31(1)(2)(a) of the Nova Scotia *Securities Act*⁵ (the **NS Act**).
- [7] The NSSC Order imposed the following terms on Byrne:
- a. Pursuant to section 134(1)(a)(i) of the NS Act, the Respondent complies with and ceases contravening Nova Scotia securities laws;
 - b. Pursuant to section 134(1)(b) of the NS Act, the Respondent shall, for a period of three years from the date of this order, cease trading in

¹ (2017), 40 OSCB 8988

² RSO 1990, c S.5

³ Hearing Brief marked as Exhibit 1

⁴ Consent marked as Exhibit 2

⁵ RSNS 1989, c 418

securities beneficially owned by anyone other than himself, with the exception of those persons listed in Appendix A to this order, which shall not be made public;

- c. Pursuant to section 134(1)(c) of the NS Act, all of the exemptions contained in Nova Scotia securities laws do not apply to the Respondent for a period of ten years from the date of this order;
- d. Pursuant to section 134(1)(d)(ii) of the NS Act, the Respondent shall be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for a period of five years from the date of this order;
- e. Pursuant to section 134(1)(f) of the NS Act, that terms and conditions of close supervision and monthly reporting be imposed upon any grant of registration to the Respondent for a period of five years from the date of granting the registration;
- f. Pursuant to section 134(1)(h) of the NS Act, the Respondent shall be reprimanded; and
- g. Pursuant to sections 135(a) and (b) of the NS Act, the Respondent shall pay an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00): five thousand dollars (\$5,000.00) of which is payable within 60 days from the date of this order, and two thousand five hundred dollars (\$2,500.00) of which is payable within six months of the date of this order.

III. CONSENT ORDER

- [8] Staff requests, and the Respondent consents to, an order in the public interest in Ontario that imposes terms similar to the sanctions, conditions, restrictions or requirements imposed by the NSSC, to the extent possible under the Act.
- [9] Additionally, to maintain the confidentiality of the personal information contained in Appendix "A" to the NSSC Order, and consistent with the terms set out in the NSSC Order, I have also ordered this information be kept confidential.

IV. ORDER

- [10] Therefore, since both Staff and the Respondent consent to the granting of an order in the public interest, as described above, and the requirements of Section 127 (10) of the Act are satisfied, I will issue the following order against Byrne:
 - a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by Byrne shall cease until February 28, 2021, except that Byrne may continue to trade in securities which are beneficially owned by Byrne or by those persons listed in Appendix "A" to the NSSC Order;
 - b. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law shall not apply to Byrne until February 28, 2028;
 - c. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Byrne shall resign any positions that he holds as a director or officer of any issuer, registrant, or investment fund manager;

- d. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Byrne is prohibited from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager, until February 28, 2023;
- e. pursuant to paragraph 1 of subsection 127(1) of the Act, should Byrne seek registration in Ontario after February 28, 2023, terms and conditions of close supervision and monthly reporting shall be imposed upon any grant of registration to Byrne, for a period of five years from the date registration is granted; and
- f. pursuant to subsection 9(1)(b) of the *Statutory Powers Procedures Act*,⁶ Appendix "A" to the draft of the NSSC Order appended as Schedule A of the Settlement Agreement between the NSSC and Byrne, dated the 8th day of February, 2018 reproduced at Tab 1 and appended to the NSSC Order and the Settlement Agreement reproduced as Tab 2 of Staff's Hearing Brief, marked as Exhibit 1 in this written hearing, shall be kept confidential.

Dated at Toronto this 6th day of September, 2018.

"D. Grant Vingoe"
D. Grant Vingoe

⁶ RSO 1990, c S.22