



Ontario  
Securities  
Commission

Commission des  
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**IN THE MATTER OF THE *SECURITIES ACT*,  
R.S.O. 1990, c. S.5, AS AMENDED**

**- and -**

**IN THE MATTER OF  
BENEDICT CHENG, FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND ERIC TREMBLAY**

**SETTLEMENT AGREEMENT**

**PART I - INTRODUCTION**

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of John David Rothstein (the “Respondent”).

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission (“Staff”) recommend settlement of the proceeding commenced by the Notice of Hearing dated April 12, 2017 (the “Proceeding”) against the Respondent according to the terms and conditions set out in Part VI of this Settlement Agreement (the “Settlement Agreement”). The Respondent agrees to the making of an order in the form attached as Schedule “A” (the “Order”) based on the facts set out below.

3. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

### **PART III – AGREED FACTS**

#### **A. OVERVIEW**

4. While employed as a Senior Vice President and National Sales Manager at an investment fund manager in Toronto, the Respondent became aware of material facts concerning an issuer which he knew had not been generally disclosed. The Respondent was in a special relationship with the issuer based on his knowledge of his employer's participation in the financing of a transaction involving that issuer. The Respondent traded in the shares of that issuer and tipped another person who also traded in those shares.

#### **B. BACKGROUND**

5. In 2014, Aston Hill Asset Management Inc. ("AHAM") was a wholly-owned subsidiary of Aston Hill Financial Inc. ("AHF").

6. According to AHF's Annual Information Form for the year ended December 31, 2014, in 2014:

- a. AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds; and
- b. AHAM was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds.

7. Between April 2013 and September 2016, the Respondent was a Senior Vice President and National Sales Manager at AHAM. The Respondent first became employed in the securities industry in 1996 after taking the Canadian Securities Course.

8. Throughout 2014, Benedict Cheng ("Mr. Cheng") was the President of AHF and the Co-Chief Investment Officer at AHF and AHAM. The Respondent reported to Mr. Cheng and Mr. Cheng was his boss.

9. The Respondent was not aware of it at the time, but on or about April 25, 2014, a representative of Canaccord Genuity Group Inc. ("Canaccord") invited AHAM to sign a non-

disclosure agreement in order to attend a meeting to learn about an investment opportunity which, to pursue, required AHAM to learn material non-public information about an issuer.

10. The Respondent was not aware of it at the time, but Mr. Cheng agreed to have AHF sign the non-disclosure agreement on behalf of AHAM. On April 29, 2014, a representative of AHAM met with representatives of Canaccord and Amaya Gaming Group Inc. (now Amaya Inc.) (“Amaya”) and learned about a proposed transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion (the “Acquisition”). The proposed transaction was a material fact in respect of Amaya.

11. The investment opportunity was for funds managed by AHAM to participate in financing the Acquisition (together with significant debt from other lenders and new Amaya shares to be issued at \$20 per share).

12. In 2014, Amaya shares traded on the Toronto Stock Exchange (the “TSX”) under the symbol AYA. The price for Amaya shares closed on the TSX on April 29, 2014 at \$6.82 per share. Amaya’s intention to issue new shares at \$20 per share represented a significant premium over the then market price for those shares, and was also a material fact with respect to Amaya.

13. The Respondent was not aware of it at the time, but two funds managed by Mr. Cheng agreed to participate in financing the Acquisition and, as such, Mr. Cheng knew the material terms of the Acquisition before they were generally disclosed, including the material fact that new Amaya shares would be issued at \$20 per share. Mr. Cheng was also aware of delays to and the final timing of the Amaya press release publicly announcing the Acquisition.

14. The Respondent was not part of the group at AHAM that worked on providing financing for the Acquisition and, until the events described below, he did not know about the Acquisition or its intended announcement on June 12, 2014.

### **C. THE RESPONDENT LEARNS ABOUT THE ACQUISITION**

15. On June 11, 2014 at or about 12:12pm, Mr. Cheng sent an email to the Respondent inviting him to come to one of the AHAM boardrooms.

16. The Respondent met Mr. Cheng in the boardroom as instructed. Mr. Cheng proceeded to inform the Respondent about the Acquisition, including that:

- a. Amaya was about to acquire the PokerStars and Full Tilt Poker brands in a major transaction;
- b. the Acquisition was confidential and not yet generally disclosed;
- c. public announcement of the Acquisition was imminent; and
- d. Mr. Cheng was aware of these facts because AHAM was participating in the Acquisition.

17. The Respondent understood that the Acquisition would cause the price for Amaya shares to increase significantly. Also at that meeting, Mr. Cheng told the Respondent that he should inform others, who had lost money on certain other investments promoted by AHF and/or AHAM, about the Acquisition before it was announced. The Respondent understood that the purpose of providing them with the material, undisclosed information was to make up for these losses.

18. The Respondent agreed to follow Mr. Cheng's instructions.

**D. INSIDER TIPPING – BREACH OF SUBSECTION 76(2) OF THE ACT**

19. Shortly after his boardroom discussion with Mr. Cheng on June 11, 2014, the Respondent tried to contact individuals who had losses on investments that had been promoted by AHF and/or AHAM in order to inform them about the Acquisition before it was announced. The Respondent connected with one individual – Mr. Frank Soave (“Mr. Soave”), then a First Vice President and Investment Advisor at CIBC Wood Gundy (“CIBC”).

20. The Respondent exchanged text messages with Mr. Soave on June 11, 2014. At about 4pm, the Respondent texted to Mr. Soave “AYA”. Mr. Soave texted back “Sorry never owned it should I”. A few minutes later the Respondent texted back “Yes”.

21. When the Respondent called Mr. Soave on June 12, 2014, the Respondent told him about the Acquisition, including that:

- a. Amaya was about to announce a major transaction that would be significantly positive for its share price;

- b. the Acquisition was confidential and not yet generally disclosed;
- c. public announcement of the Acquisition was imminent; and
- d. the information came from Mr. Cheng who was aware of these facts because AHAM was participating in the Acquisition.

22. Mr. Soave asked the Respondent who else was involved in providing financing for the Acquisition. As the Respondent did not then know the answer to that question, he agreed to make inquiries and get back to Mr. Soave.

23. On June 12, 2014 at about 10:15am, Mr. Soave sent an email to the Respondent stating “Thanks”. At about 10:18am, the Respondent replied with “Blackrock, blackstone and another huge one behind it.”

24. In 2014, BlackRock Inc. and The Blackstone Group L.P. were very large U.S. based asset managers with trillions of dollars under management. It would later be publicly disclosed that both of these companies provided financing to Amaya to help pay for the Acquisition.

25. On June 12, 2014, at about 10:35am, Mr. Soave placed an order to purchase and that day did purchase 5,000 shares of Amaya at \$12.10 per share at CIBC for a total investment of \$60,755 (including commission).

26. Trading in the shares of Amaya was halted less than two hours later at 12:22pm.

27. On June 12, 2014 at about 1:23pm, Mr. Soave sent a text to the Respondent stating “Wholy Shit” (sic).

28. The Acquisition was announced on June 12, 2014 at or about 9pm. The price for Amaya shares opened on the TSX the next morning at \$19.05 per share, an increase of approximately 57% relative to Mr. Soave’s purchase price the day before.

29. Mr. Soave sold all his Amaya shares on June 13, 2014 at an average price of \$19.78 per share for total proceeds of \$98,921 (net of commission) – a profit of \$38,166, or a return of approximately 63% over one day. Mr. Soave had never traded in Amaya shares before.

30. On June 13, 2014, after the bulk of his Amaya shares had been sold, Mr. Soave texted “Thank you” to the Respondent. The Respondent replied “Unbelievable”.

## **E. INSIDER TRADING – BREACH OF SUBSECTION 76(1) OF THE ACT**

31. On June 11, 2014 at about 2:49pm, approximately 2.5 hours after speaking to Mr. Cheng about Amaya in the boardroom, the Respondent entered an order to purchase and did purchase 700 shares of Amaya at \$11.875 per share in an account in trust for his children at BMO InvestorLine for a total investment of \$8,322 (including commission).

32. Amaya announced the Acquisition the next day. The price for Amaya shares opened on the TSX on June 13, 2014 at \$19.05 per share, an increase of approximately 60% relative to the Respondent's purchase price two days prior.

33. The Respondent sold his Amaya shares on June 13, 2014 at \$19.77 per share for total proceeds of \$13,829 (net of commission) – a profit of \$5,507, or a return of approximately 66% over 2 days. The Respondent had never traded in Amaya shares before.

## **PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW**

34. By engaging in the conduct described above, the Respondent admits and acknowledges that he has breached Ontario securities law by contravening subsections 76(1) and 76(2) of the Act.

## **PART V – STAFF AND RESPONDENT'S POSITIONS**

35. Staff note that in agreeing to the terms set out below, the Respondent has been granted substantial credit for cooperation, including the undertaking to cooperate in the future set out in Schedule "B" to this Settlement Agreement. Staff do not object to the mitigating circumstances set out by the Respondent below.

36. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances:

- a) **Early cooperation.** The Respondent has agreed to settle this matter. The Commission will not have to expend any further resources on it. Immediately after his interview on June 15, 2016, he sought to cooperate in order to resolve this matter.
- b) **Dependants.** The Respondent supports his family financially, which includes three school-aged children. His wife is not presently employed.

- c) ***No prior record.*** The Respondent has no prior record of breaching Ontario securities law (or criminal offences).
- d) ***Acted on tip from his superior.*** The Respondent was given the tip in question by his boss, and told to pass it along to resolve a problem with a client. He should have exercised his own judgment and declined to pass along the tip, but he felt pressure to please his boss and an important firm client.
- e) ***Small profit only on trading.*** The Respondent made approximately \$5,500 from the shares that he bought and sold in June 2014.
- f) ***No firm training on insider trading and tipping.*** In his three years working at AHAM, the Respondent never received any training in connection with insider trading or tipping. He realizes this is no excuse, but training on the matter would have helped him better understand the severity of his actions. Certainly after this experience he will never again engage in insider trading or tipping.
- g) ***Not registered.*** The Respondent is not and has never been a registrant.
- h) ***Career consequences.*** As a result of this investigation, the Respondent lost his job. He is struggling to find other work. The publicity that is expected to follow from this Settlement will likely make it even more difficult for him to find work and support his family.

## **PART VI – TERMS OF SETTLEMENT**

37. The Respondent agrees to the terms of settlement set forth below. The Respondent consents to the Order, pursuant to which it is ordered that:

- (a) the Settlement Agreement is approved;
- (b) trading in any securities or derivatives by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act;

- (c) the acquisition of any securities by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
- (d) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
- (e) the Respondent resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- (f) the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of two years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
- (g) the Respondent resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
- (h) the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of two years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
- (i) the Respondent resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
- (j) the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of two years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
- (k) the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of two years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (l) the Respondent pay an administrative penalty in the amount of \$5,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;



- (m) the Respondent disgorge to the Commission the amount of \$5,500, pursuant to paragraph 10 of subsection 127(1) of the Act which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and
- (n) after the payments set out in sub-paragraphs 37 (l) and (m) are made in full, as an exception to the provisions of sub-paragraphs 37 (b) and (c), the Respondent is permitted to trade in or acquire securities in his personal registered retirement savings plan accounts and/or his tax-free savings accounts and/or for any registered education savings plan accounts for which he is a beneficiary or a sponsor.

38. The Respondent has given an undertaking (the “Undertaking”) to the Commission in the form attached as Schedule “B” to this Settlement Agreement, which Undertaking includes an undertaking to cooperate with Staff in its investigation, including testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out herein and meeting with Staff in advance of that proceeding to prepare for that testimony. The Respondent further undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 37(a) to (n) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

39. The Respondent agrees to attend in person at the hearing before the Commission to consider the proposed settlement.

40. The Respondent acknowledges that this Settlement Agreement and proposed Order may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which he may intend to engage in any securities related activities, prior to undertaking such activities.

**PART VII – FURTHER PROCEEDINGS**

41. If the Commission approves this Settlement Agreement, Staff will not commence any other proceeding under Ontario securities law against the Respondent in relation to the facts set out in Part III of this Settlement Agreement, unless the Respondent fails to comply with any of the terms of the Settlement Agreement or the Undertaking, Staff may continue or bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement. In addition, if this Settlement Agreement is approved by the Commission, and the Respondent fails to comply with the terms of the Settlement Agreement, the Commission is entitled to bring any proceedings necessary to recover the amounts set out in paragraphs 37 (l) and (m) above.

**PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT**

43. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for April 18, 2017, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's *Rules of Procedure*, (2014), 37 O.S.C.B. 4168.

44. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

45. If the Commission approves this Settlement Agreement, the Respondent waives all rights to a full hearing, judicial review or appeal of this matter under the Act.

46. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

47. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

**PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT**

48. If the Commission does not approve this Settlement Agreement or does not make the Order:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
- (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

49. The parties will keep the terms of this Settlement Agreement confidential until the settlement hearing, unless they agree in writing not to do so or unless otherwise required by law.

**PART X – EXECUTION OF SETTLEMENT AGREEMENT**

50. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

51. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto this 12<sup>th</sup> day of April 2017.

*“John David Rothstein”*

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JOHN DAVID ROTHSTEIN

*“Isabella Rogers”*

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Isabella Rogers  
Witness

*“Jeff Kehoe”*

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Jeff Kehoe  
Director, Enforcement Branch  
Ontario Securities Commission

## Schedule “A”



Ontario  
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**IN THE MATTER OF THE *SECURITIES ACT*,  
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**- and -**

**IN THE MATTER OF  
BENEDICT CHENG, FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND ERIC TREMBLAY**

**ORDER  
(Subsection 127(1))**

**WHEREAS:**

1. on **April XX, 2017**, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing (the “Notice of Hearing”) in relation to the Statement of Allegations filed by Staff of the Commission (“Staff”) on **April XX, 2017** with respect to Benedict Cheng, Frank Soave, John David Rothstein (“Rothstein”), and Eric Tremblay (the “Respondents”);
2. on **April XX, 2017**, the Commission issued a second Notice of Hearing (the “Notice of Settlement Hearing”) in relation to a settlement agreement between Rothstein and Staff dated **April XX, 2017** (the “Settlement Agreement”);
3. the Notice of Settlement Hearing gave notice that on **April XX, 2017**, the Commission would hold a hearing to consider whether it is in the public interest to approve a Settlement Agreement;
4. pursuant to the Settlement Agreement, Rothstein has undertaken to the Commission in the form attached as Schedule “B” to the Settlement Agreement, to cooperate with Staff in its investigation, including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the

matters set out in the Settlement Agreement and meeting with Staff in advance of any such proceeding to prepare for that testimony;

5. Rothstein acknowledges that the Settlement Agreement and this Order may form the basis for orders of parallel effect in other jurisdictions in Canada.
6. the Commission has reviewed the Settlement Agreement, the Notice of Settlement Hearing and the Statement of Allegations, and heard submissions from counsel for Rothstein and Staff; and
7. the Commission is of the opinion that it is in the public interest to make this Order.

**IT IS ORDERED THAT:**

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act;
3. the acquisition of any securities by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
4. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
5. the Respondent resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
6. the Respondent be prohibited from becoming or acting as a director or officer of any issuer for a period of two years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
7. the Respondent resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
8. the Respondent be prohibited from becoming or acting as a director or officer of a registrant for a period of two years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

9. the Respondent resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
10. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of two years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
11. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of two years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
12. the Respondent pay an administrative penalty in the amount of \$5,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act,;
13. the Respondent disgorge to the Commission the amount of \$5,500, pursuant to paragraph 10 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act,; and
14. After the payments set out in paragraphs 12 and 13 are made in full, as an exception to the provisions of paragraphs 2 and 3, the Respondent is permitted to trade in or acquire securities in his personal registered retirement savings plan accounts and/or his tax-free savings accounts and/or for any registered education savings plan accounts for which he is a beneficiary or a sponsor.

**DATED** at Toronto, this [day] day of [month], 2017.

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**Schedule “B”**

I, JOHN DAVID ROTHSTEIN, hereby undertake to cooperate with Staff of the Ontario Securities Commission (“Staff” and “Commission”) in its investigation into illegal insider trading and tipping in securities of Amaya Gaming Group Inc. (now Amaya Inc.), including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in my Settlement Agreement with Staff dated April 12, 2017, and meeting with Staff in advance of any such proceeding to prepare for that testimony.

Dated at Toronto this 12<sup>th</sup> day of April 2017.

*“John David Rothstein”*

\_\_\_\_\_  
JOHN DAVID ROTHSTEIN

*“Isabella Rogers”*

\_\_\_\_\_  
Witness