

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

- and -

**IN THE MATTER OF
TRAFALGAR ASSOCIATES LIMITED
AND EDWARD FURTAK**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) makes the following allegations:

THE RESPONDENTS

1. The respondent Trafalgar Associates Limited (“Trafalgar”) is a company incorporated under the laws of Ontario. Trafalgar is a wholly-owned subsidiary of the Trafalgar Group of companies.
2. During the material time, Trafalgar was registered with the Ontario Securities Commission (the “Commission”) pursuant to the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”) as a limited market dealer.
3. The respondent Edward Furtak (“Furtak”) is a Canadian citizen residing in Bermuda. Furtak is the President of the Trafalgar Group and Trafalgar.
4. Furtak is also the Chair and President of Conexys Corporation Limited, formerly FaxForward International Ltd. (“Conexys”). Conexys trades on the Bermuda Stock Exchange under the symbol CXYS.BH.
5. During the material time, Furtak was not registered with the Commission.

Distributions of FFWD-1998 Limited Partnership Units

6. In or about April 1998, Trafalgar and Furtak established FFWD-98 Limited Partnership (“FFWD-98”). FFWD-98 entered into a services agreement with Conexys. Conexys was developing fax technology that it intended to market to corporations in Bermuda and Canada.

7. Units in FFWD-98 were offered exclusively to residents of Ontario through an Offering Memorandum dated April 30, 1998 (the "OM"). According to the OM, a maximum of 1,000 units was offered at \$5,000 per unit.

8. Units in FFWD-98 were sold to ten Ontario investors for a total amount sold of \$220,000. Trafalgar, through Furtak, sold \$150,000 worth of the FFWD-98 units to one client (the "Client"). The remaining investors purchased between \$5,000 and \$10,000 worth of FFWD-98 from registered salespeople who were not employees of Trafalgar.

9. FFWD-98 did not file a preliminary prospectus or prospectus with the Commission. Trafalgar and Furtak traded in securities, which trades were distributions, without a prospectus being filed or received by the Commission and with no exemption from the prospectus requirements of Ontario securities law being available for such distributions.

10. The FFWD-98 units offering was advertised on the Trafalgar Group's website and in at least one Toronto newspaper. Selling commissions relating to the sale of FFWD-98 units to the Client and promotional expenses were paid to Trafalgar.

11. Although ultimately Form 20's respecting the sale of FFWD-98 units were filed with the Commission, they were not filed in accordance with the Act.

Conversion of FFWD-98 Units

12. Ultimately, the FFWD-98 units were converted to Conexys shares. In or about May 1999, Conexys elected to terminate its services agreement with FFWD-98. Accordingly, Conexys was obliged to, and did, purchase all units at the price of 2,300 Conexys shares for each FFWD-98 unit.

13. In converting the FFWD-98 units to Conexys shares, Trafalgar and Furtak sold securities in a publicly listed company when they were not registered by the Commission to do so.

14. Further, no preliminary prospectus and prospectus was filed and received by the Commission and no prospectus exemption was available for such distributions.

15. FFWD-98 unitholders were not provided with access to substantially the same information concerning the Conexys shares that a prospectus filed under the Act would provide. Although the OM referenced a potential conversion, it provided no information about Conexys' business and financial condition. Trafalgar and Furtak did not supplement this information for their clients.

Advertising and Holding Out

16. Contrary to section 44 of the Act, Trafalgar advertised on its website that it was registered as a limited market dealer with the Commission.

17. In the Spring of 2000, Trafalgar held itself out as being registered with the Commission when it was not registered contrary to section 45 of the Act.

Unregistered Selling by Furtak

18. Although he was not registered to do so, Furtak sold \$150,000 worth of the FFWD-98 units to the Client in May 1998. At the time of the investment, Furtak's client was in his early 80's.

19. Subsequently, Furtak sold to the Client an interest in a software licensing agreement, the cost of which was \$90,000 cash and a \$210,000 promissory note. The licensing agreement locked in the octogenarian's money for ten years.

20. The investments described in paragraphs 18 and 19 above were unsuitable for the Client.

21. Trafalgar's and Furtak's conduct, as described in paragraphs 6 through 20 above, was contrary to Ontario securities law and the public interest.

22. Such other allegations as Staff may make and the Commission may permit.

Date: May 1, 2003