



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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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
MARK ALLEN DENNIS**

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

Staff of the Ontario Securities Commission (the “Commission”) (“Staff”) allege:

I. OVERVIEW

1. On February 5, 2015, Mark Allen Dennis (“Dennis”) pleaded guilty in the Ontario Superior Court of Justice (“Superior Court”) to 10 counts of theft by conversion over \$5,000, contrary to sections 322(1)(a) and 334(a) of the *Criminal Code*, R.S.C., 1985, c. C-46 (the “Criminal Code”). Dennis’s guilty plea was accepted by the Superior Court, and he was convicted and sentenced to 42 months in prison, less credit for 128 days of pre-sentence custody, for a net sentence of 37 months and 22 days.
2. The offences for which Dennis was convicted arose from transactions, business or a course of conduct related to securities.
3. Staff are seeking an inter-jurisdictional enforcement order reciprocating Dennis’s convictions, pursuant to paragraph 1 of subsection 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”).

4. The conduct for which Dennis was sanctioned took place between 2003 and 2010 (the “Material Time”).

II. THE RESPONDENT AND THE DENNAM COMPANIES

5. Dennis is a resident of Ontario.
6. During the Material Time, Dennis was employed as an investment advisor with TD Waterhouse, following which he worked briefly with Richardson Partners, before leaving in the spring of 2009 to devote his time to Dennam Global Realty, Dennam Group Ltd., Dennam Consulting, Dennam Wealth Management, Dennam Realty, Dennam Holdings and Ora Medispa (collectively, the “Dennam Companies”).
7. Dennis was one of the directing minds of the Dennam Companies.
8. Dennis was registered in various capacities with the Commission throughout the majority of the Material Time.
9. Dennis has not been registered in any capacity with the Commission since January 25, 2010.

III. THE SUPERIOR COURT OF JUSTICE PROCEEDINGS

The Indictment

10. By Indictment sworn September 18, 2014 (the “Indictment”), Dennis was charged with a total of 27 various counts of contravening the Criminal Code.

Dennis’s Guilty Plea and Agreed Statement of Fact

11. On February 5, 2015, Dennis pleaded guilty to 10 counts of theft by conversion over \$5,000 contained within the Indictment, being counts 1, 2, 5, 8, 9, 10, 14, 17, 18 and 25, contrary to sections 322(1)(a) and 334(a) of the Criminal Code. An Agreed Statement of Fact was filed in respect of the guilty plea and sentence.

12. Pursuant to the Agreed Statement of Fact, Dennis admitted, among other things, to a pattern of conduct during the Material Time whereby he would accept money from clients and other individuals (while acting as their investment/financial advisor), typically for the purposes of either investing the funds in commercial real estate secured by mortgages, or in mortgages provided to commercial properties located within southern Ontario.
13. Dennis did not invest the funds in the manner suggested. He instead used them for a variety of other purposes, including his own personal use and for making payments to other investors/clients. In other instances, Dennis made assorted transfers of funds from client accounts to accounts under his control or into accounts belonging to various Dennam Companies, in such cases, eliminating overdraft positions in the Dennam Companies' accounts.
14. On the basis of the Agreed Statement of Fact and his plea, the Superior Court found Dennis guilty of 10 counts of theft by conversion over \$5,000, contrary to sections 322(1)(a) and 334(a) of the Criminal Code.

Dennis's Sentence

15. A sentencing hearing was held on February 5, 2015 before the Honourable Justice Parayeski of the Superior Court. Justice Parayeski issued oral reasons and sentenced Dennis to a term of imprisonment of 42 months, less credit for 128 days of pre-sentence custody, for a net sentence of 37 months and 22 days.

IV. EARLIER CONVICTION AND REGULATORY PROCEEDINGS

16. Pursuant to a previous Indictment dated October 16, 2012 (the "2012 Indictment"), Dennis was charged with three counts of theft by conversion over \$5,000, contrary to sections 322(1)(a) and 334(a) of the Criminal Code. On May 2, 2014, following a trial by jury before the Superior Court, Dennis was found guilty of one count of theft by conversion (being count three of the 2012 Indictment). On July 18, 2014, a sentencing hearing was held before the Honourable Justice A. Whitten, and Dennis was sentenced to a term of imprisonment of 2 years less a day, followed by a 2 year period of probation.

17. Dennis was also the subject of regulatory proceedings before the Investment Industry Regulatory Organization of Canada (“IIROC”). On February 17, 2011, IIROC issued a Notice of Hearing (the “IIROC Notice of Hearing”) concerning Dennis’s misconduct while employed with TD Waterhouse, a Dealer Member of IIROC. The IIROC Notice of Hearing contained allegations related to the same course of conduct referenced in the 2012 Indictment before the Superior Court.
18. On June 3, 2011, an IIROC Hearing Panel sanctioned Dennis (who was registered with IIROC between March 2003 and October 2008) for misappropriating approximately \$1.4 million from a client between September 2004 and May 2006, while he was retained as her investment advisor, contrary to IIROC Dealer Member Rule 29.1 (formerly Investment Dealer Association By-law 29.1), and for failing to provide information in respect of an IIROC investigation, contrary to IIROC Dealer Member Rule 19.5. The IIROC Hearing Panel ordered a permanent bar on Dennis’s approval with IIROC, imposed a fine of \$1,000,000 for the misappropriation of client funds, a fine of \$25,000 for his failure to provide information to IIROC in connection with their investigation, and ordered Dennis to pay costs in the amount of \$7,500 (the “IIROC Decision”).
19. On November 21, 2011, a hearing was held before the Ontario Securities Commission (the “Commission”) to review the IIROC Decision. In a decision dated July 31, 2012, the Commission found that the IIROC Hearing Panel proceeded on an incorrect principle and made an error of law in imposing a fine against Dennis which did not achieve disgorgement of the entire amount Dennis was found to have misappropriated from his client. The Commission substituted its decision in place of the IIROC Decision, and imposed a revised fine against Dennis in the amount of \$1,450,000 with respect to the misappropriation, in addition to the other sanctions ordered by the IIROC Hearing Panel.

V. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

20. Pursuant to paragraph 1 of subsection 127(10) of the Act, Dennis’s convictions for offences arising from transactions, business or a course of conduct relating to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.

21. Staff allege that it is in the public interest to make an order against Dennis.
22. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.
23. Staff request that this application be heard by way of a written hearing pursuant to Rules 2.6 and 11 of the *Ontario Securities Commission Rules of Procedure*, (2014) 37 OSCB 4168.

DATED at Toronto, this 28th day of September, 2015.