



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 MM CAFÉ FRANCHISE INC., DCL HEALTHCARE
PROPERTIES INC., CULTURALITE MEDIA INC., CAFÉ ENTERPRISE TORONTO
INC., TECHOCAN INTERNATIONAL CO. LTD., 1727350 ONTARIO LTD.,
MARIANNE GODWIN, DAVE GARNET CRAIG, FRANK DELUCA, ELAINE
CONCEPCION and HAIYAN (HELEN) GAO JORDAN**

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

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

Overview

1. This is a case of unregistered trading, illegal distributions and fraud.

The Corporate Respondents

2. MM Café Franchise Inc. (“MMCF”) was incorporated on September 6, 2011 as a Canadian corporation. It has a registered corporate address in Ontario. MMCF has never been registered with the Commission in any capacity.
3. DCL Healthcare Properties Inc. (“DCL”) was originally incorporated in Ontario on January 20, 2012 as DCL Stouffville Medical Centre Ltd. and then changed its name to DCL on November 15, 2012. DCL has never been registered with the Commission in any capacity.

4. Culturalite Media Inc. (“Culturalite”) was incorporated in Ontario on June 29, 2011. Culturalite has never been registered with the Commission in any capacity.
5. Café Enterprise Toronto Inc. (“CET”) was incorporated in Ontario on August 2, 2012. CET has never been registered with the Commission in any capacity.
6. Techocan International Co. Ltd. (“Techocan”) was incorporated in Ontario on August 31, 1998. Techocan has never been registered with the Commission in any capacity.
7. 1727350 Ontario Ltd. (“1727350”) was incorporated in Ontario on February 26, 2007. 1727350 has never been registered with the Commission in any capacity.

The Individual Respondents

8. Marianne Godwin (“Godwin”) was an Ontario resident and the Chief Executive Officer (“CEO”) and a director of MMCF. Godwin has never been registered with the Commission in any capacity.
9. Dave Garnet Craig (“Craig”) was an Ontario resident and the Chief Development Officer (“CDO”) and a director of MMCF. Craig has never been registered with the Commission in any capacity.
10. Frank DeLuca (“DeLuca”) was an Ontario resident and the President, CEO and a director of DCL. DeLuca has never been registered with the Commission in any capacity.
11. Elaine Concepcion (“Concepcion”) was an Ontario resident and the founder, CEO and a director of Culturalite. Concepcion has never been registered with the Commission in any capacity.
12. Haiyan (Helen) Gao Jordan (“Jordan”) was an Ontario resident and: (i) the President and directing mind of CET until November 2014; (ii) the President and directing mind of Techocan; and (iii) a director of 1727350. Jordan was registered with the Commission as a dealing representative for a scholarship plan dealer from March 7, 2011 to September 16, 2011.

Scope of Activity

13. Between July 2011 and December 2014 (the “Material Time”), MMCF, DCL, Culturalite, CET and their respective principals used Jordan to solicit and sell shares of their respective companies to investors in Ontario and China. Jordan solicited investors by using the lure of an Ontario immigration program, representing to investors that they could qualify to obtain permanent resident status in Canada through the Opportunities Ontario Provincial Nominee Program (the “OPNP”) if they invested in any of MMCF, DCL, Culturalite or CET. Jordan raised a total of approximately \$12 million in investor funds for MMCF, DCL, Culturalite and CET.

MMCF***Unregistered Trading And Illegal Distribution By Jordan***

14. In 2011, Godwin and Craig incorporated MMCF for the purpose of franchising coffee shops that used the Marilyn Monroe name.
15. During the Material Time, MMCF offered shares to investors. The shares offered by MMCF are securities as defined in subsection 1(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the “Act”).
16. Commencing in or about July 2011, Jordan, directly, and indirectly through the use of agents, solicited investors in China and Ontario to invest in MMCF. She met with and provided potential investors with promotional materials about MMCF, made representations about MMCF and offered investors the opportunity to purchase MMCF shares. Information about investing in MMCF was also posted on the webpage of Jordan’s company, Techocan.
17. Jordan enticed investors to purchase MMCF shares by making representations that their investment in MMCF could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, applications were submitted by at least seven investors to the OPNP. All of the MMCF investors’ applications were rejected under the OPNP.

18. Jordan provided investors with subscription agreements for MMCF shares and then submitted the executed subscription agreements to MMCF on behalf of the investors.
19. Jordan accepted funds from investors for the purchase of MMCF shares in her personal bank account, which she then transferred to MMCF. Investor funds were also deposited directly into Techocan's bank account and then transferred to MMCF. Jordan also accepted cheques from investors on behalf of MMCF.
20. As a result of this activity, Jordan and MMCF raised approximately \$5.1 million from 21 investors who purchased MMCF shares during the Material Time.
21. Jordan, Techocan and 1727350 received consulting fees and shares of MMCF from MMCF for soliciting investors.
22. The trades in MMCF's securities were "distributions" as defined in subsection 1(1) of the Act as the securities had not been previously issued.
23. By engaging in the conduct described above, Jordan engaged in the business of trading securities of MMCF without being registered, contrary to subsection 25(1) of the Act and traded in securities for which a preliminary prospectus or prospectus was not filed with the Commission and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Unregistered Trading and Illegal Distribution By Godwin, Craig and MMCF

24. Godwin, Craig and MMCF engaged in the business of trading securities of MMCF by:
 - a. meeting with and making presentations to potential investors;
 - b. creating promotional materials about MMCF that were provided to potential investors;
 - c. accepting and signing the subscription agreements submitted by investors as principals of MMCF;

- d. controlling and being the signatories on MMCF's bank accounts which received investor funds for the purchase of MMCF shares; and
 - e. engaging and compensating Jordan, Techocan and 1727350 to solicit investors and sell shares of MMCF.
25. By engaging in the conduct described above, Godwin, Craig and MMCF engaged in the business of trading securities of MMCF without being registered, contrary to subsection 25(1) of the Act and traded in securities without filing a preliminary prospectus or prospectus and obtaining a receipt from the Director, and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Fraudulent Conduct By Godwin, Craig and MMCF

26. Godwin, Craig and MMCF engaged in a course of conduct related to securities, commencing with the solicitation of investors, that they knew, or reasonably ought to have known, perpetrated a fraud on investors.
27. In October 2011, Godwin and Craig executed a license agreement on behalf of MMCF with Authentic Brands Group ("ABG"), in which MMCF was required to pay ABG USD 1 million per year to use the Marilyn Monroe name. The term of the license agreement was 20 years.
28. The promotional materials that were provided to investors omitted the fact that MMCF was required to pay USD 1 million per year to ABG pursuant to the license agreement. Instead, materials provided to investors only referred to one USD 1 million payment to ABG and investors were advised that this amount was settled in full on October 20, 2011. The fact that MMCF had to pay ABG USD 1 million a year was an important fact that investors should have known. By concealing this fact, Godwin and Craig dishonestly placed investors' pecuniary interests at risk.

29. Godwin and Craig represented to investors that their funds would be used to develop a franchise system and a model café. Contrary to this representation, a significant amount of investor funds were used for the personal benefit of Godwin and Craig, including:
- a. payment of \$70,000 to Godwin for a share buy-back of MMCF shares;
 - b. payment of \$70,000 to Craig for a share buy-back of MMCF shares;
 - c. cash advances;
 - d. a one-time payment of \$45,000 to each of Godwin and Craig;
 - e. life insurance for Godwin, which named Godwin's children as the beneficiaries, rather than the corporation;
 - f. food and beverages;
 - g. taxis; and
 - h. personal travel.
30. No investor funds have been returned by MMCF and there is no money remaining in the MMCF bank accounts.

DCL

Unregistered Trading and Illegal Distribution By Jordan

31. During the Material Time, DCL offered shares to investors. The shares offered by DCL are securities as defined in subsection 1(1) of the Act.
32. Jordan, directly, and indirectly through the use of agents, solicited investors in China and Ontario to purchase DCL shares. She met with and provided potential investors promotional materials about DCL, made representations about DCL and offered investors the opportunity to purchase DCL shares. Jordan also provided investors with subscription agreements and then submitted executed subscription agreements to DCL on behalf of investors.

33. Jordan enticed investors to purchase DCL shares by making representations that their investment in DCL could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, applications were made by at least 12 investors to the OPNP.
34. As a result of this activity, Jordan and DCL raised \$2.6 million from 16 investors who purchased DCL shares during the Material Time.
35. Jordan and Techocan received consulting fees and/or other payments from DCL for soliciting investors to purchase DCL shares.
36. The trades in DCL's securities described above were "distributions" as defined in subsection 1(1) of the Act as the securities had not been previously issued.
37. By engaging in the conduct described above, Jordan engaged in the business of trading securities of DCL without being registered, contrary to subsection 25(1) of the Act and traded in securities for which a preliminary prospectus or prospectus was not filed with the Commission and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Unregistered Trading and Illegal Distribution By DeLuca and DCL

38. DeLuca and DCL engaged in the business of trading securities of DCL by:
 - a. meeting with and making presentations to potential investors;
 - b. creating promotional materials about DCL that were provided to potential investors;
 - c. accepting and signing the subscription agreements as President of DCL;
 - d. controlling and being one of the signatories on DCL's bank accounts which received investor funds; and
 - e. engaging and compensating Jordan and Techocan to solicit investors and sell shares of DCL.

39. All of the DCL investors' immigration applications were rejected under the OPNP. As a result, to date, twelve of the DCL investors requested a return of their investor funds. To date, DCL and DeLuca have refunded 6 investors, returning approximately \$900,000. DCL and DeLuca have failed to refund 10 other investors, 6 of whom have requested a return of their money. Approximately \$1.7 million is owed to these investors.
40. By engaging in the conduct described above, DeLuca and DCL engaged in the business of trading securities of DCL without being registered, contrary to subsection 25(1) of the Act and traded in securities without filing a preliminary prospectus or prospectus and obtaining a receipt from the Director, and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act. DeLuca and DCL failed to make exempt distribution filings with the Commission as required by Part 6 of National Instrument 45-106 – *Prospectus and Registration Exemptions* ("NI 45-106").

Culturalite

Unregistered Trading and Illegal Distribution By Jordan

41. During the Material Time, Culturalite offered shares to investors. The shares offered by Culturalite are securities as defined in subsection 1(1) of the Act.
42. Jordan solicited investors in China to invest in Culturalite. She met with and provided potential investors with promotional materials about Culturalite, made representations about Culturalite and offered investors the opportunity to purchase Culturalite shares. Jordan also provided potential investors with subscription agreements and then submitted the executed subscription agreements to Culturalite on behalf of investors.
43. Jordan enticed investors to purchase Culturalite shares by making representations that their investment in Culturalite could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, Culturalite investors submitted applications to the OPNP. All of the Culturalite investors' immigration applications were rejected under the OPNP.

44. Jordan was one of the signatories on the Culturalite bank account which received investor funds for the purchase of Culturalite shares.
45. As a result of this activity, Jordan and Culturalite raised approximately \$1.3 million from investors who purchased Culturalite shares during the Material Time.
46. Jordan received a salary from Culturalite as Chief Revenue Officer. Her sole responsibility was to solicit investors to purchase Culturalite shares. Techocan also received compensation from Culturalite for soliciting investors to purchase Culturalite shares.
47. No investor funds have been returned by Culturalite. There is no money remaining in the Culturalite bank account.
48. The trades in Culturalite's securities described above were "distributions" as defined in subsection 1(1) of the Act as the securities had not been previously issued.
49. By engaging in the conduct described above, Jordan engaged in the business of trading securities of Culturalite without being registered, contrary to subsection 25(1) of the Act and traded in securities for which a preliminary prospectus or prospectus was not filed with the Commission and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Unregistered Trading and Illegal Distribution By Concepcion and Culturalite

50. Concepcion and Culturalite engaged in the business of trading securities of Culturalite by:
 - a. meeting with and making presentations to potential investors;
 - b. creating promotional materials about Culturalite that were provided to potential investors;
 - c. accepting and signing the subscription agreements as the CEO of Culturalite;

- d. controlling and being one of the signatories on Culturalite's bank account which received investor funds; and
 - e. engaging and compensating Jordan and Techocan to solicit investors and sell shares of Culturalite.
51. By engaging in the conduct described above, Concepcion and Culturalite engaged in the business of trading securities of Culturalite without being registered, contrary to subsection 25(1) of the Act and traded in securities without filing a preliminary prospectus or prospectus and obtaining a receipt from the Director, and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act. Concepcion and Culturalite failed to make exempt distribution filings with the Commission as required by NI 45-106.

CET

Unregistered Trading by Jordan and CET

52. During the Material Time, CET offered shares to investors. The shares offered by CET are securities as defined in subsection 1(1) of the Act.
53. Jordan solicited investors to purchase CET shares. She met with and provided potential investors with promotional materials about CET, made representations about CET and offered investors the opportunity to purchase CET shares. Jordan also prepared and provided investors with subscription agreements which she then executed as the directing mind of CET. Information about investing in CET was also posted on Techocan's website.
54. Jordan enticed investors to purchase CET shares by making representations that their investment in CET could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, two investors submitted applications to the OPNP. One of the applications has been rejected under the OPNP and the other is still pending.

55. Jordan was one of the signatories on the CET bank account which received investor funds. Jordan also received investor funds in her personal bank account, which she then transferred to CET.
56. As a result of this activity, Jordan and CET raised approximately \$3 million from two investors who purchased CET shares during the Material Time.
57. Jordan received a salary from CET for soliciting investors to purchase CET shares. Techocan received consulting fees from CET for soliciting investors to purchase CET shares.

Breaches of Ontario Securities Law and Conduct Contrary to the Public Interest

58. The Respondents breached Ontario securities law in the following ways:
 - a. During the Material Time, MMCF, DCL, Culturalite, CET, Godwin, Craig, DeLuca, Concepcion and Jordan traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered, contrary to subsection 25(1) of the Act;
 - b. During the Material Time, the trading of MMCF, DCL and Culturalite securities as set out above constituted distributions of MMCF, DCL and Culturalite securities by MMCF, DCL, Culturalite, Godwin, Craig, DeLuca, Concepcion and Jordan in circumstances where no preliminary prospectus and prospectus were filed and receipts had not been issued for them by the Director and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act;
 - c. During the Material Time, Godwin, Craig and MMCF engaged in or participated in acts, practices or courses of conduct relating to securities of MMCF that they knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(1)(b) of the Act; and

- d. During the Material Time, each of the individual respondents who were directors and/or officers of the corporate respondents authorized, permitted, or acquiesced in the corporate respondents' non-compliance with Ontario securities law and as a result is deemed to also have not complied with Ontario securities law pursuant to section 129.2 of the Act.
59. The conduct described above was also contrary to the public interest as the Respondents' conduct was contrary to the fundamental purposes and principles of the Act as set out in subsections 1.1 and 2.1 of the Act, namely by engaging in unfair, improper and fraudulent practices which harmed investors in each of the companies and by impugning the integrity of the capital markets.
60. MMCF, DCL, Culturalite, CET, Godwin, Craig, DeLuca, Concepcion and Jordan harmed investors and negatively affected the reputation and integrity of Ontario's capital markets by engaging in the business of trading in securities without being registered to do so.
61. MMCF, DCL, Culturalite, Godwin, Craig, DeLuca, Concepcion and Jordan harmed investors and negatively affected the reputation and integrity of Ontario's capital markets by failing to file a preliminary prospectus or prospectus for the distribution of MMCF, DCL and Culturalite shares and by failing to properly rely on any exemptions.
62. Godwin, Craig, DeLuca, Concepcion and Jordan failed to understand that the investments made in each of MMCF, DCL, Culturalite and CET did not meet the minimum threshold to qualify for nomination under the OPNP and were "immigration-linked investment schemes" prohibited by the applicable Immigration and Refugee Protection Regulations.
63. Godwin, Craig and MMCF harmed investors and impugned the integrity of the Ontario capital markets by omitting to tell investors important facts about their investment and using investor funds for their personal benefit.
64. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 23rd day of March, 2016.