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Securities  
Commission

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de l'Ontario

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**IN THE MATTER OF DONNA HUTCHINSON, CAMERON EDWARD CORNISH,  
DAVID PAUL GEORGE SIDDEERS and PATRICK JELF CARUSO**

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

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

**I. OVERVIEW**

1. This is a case of illegal insider tipping and illegal insider trading. Illegal insider tipping and illegal insider trading are harmful to honest investors and erode confidence in the capital markets.

**Donna Hutchinson and Cameron Edward Cornish**

2. The Respondent, Donna Hutchinson (“**Hutchinson**”), engaged in illegal insider tipping over the course of a four and one-half year period from October 1, 2011 to April 30, 2016 (the “**Material Time**”).

3. Cameron Edward Cornish (“**Cornish**”) engaged in illegal insider tipping and illegal insider trading during the Material Time.

4. During the Material Time, Hutchinson was a legal assistant at a law firm in Toronto (the “**Law Firm**”). As a result of her employment, Hutchinson acquired knowledge of material, non-public information of pending corporate transactions (the “**Transactions**”) which she communicated to Cornish, in breach of subsection 76(2) of the *Securities Act*, RSO 1990, c S.5, (the “**Act**”).

5. With knowledge of the material, non-public information provided to him by Hutchinson, Cornish traded in securities of issuers which were involved in the Transactions. Cornish thereby traded in securities of reporting issuers with knowledge of a material fact with respect to the reporting issuers that had not been generally disclosed, in breach of subsection 76(1) of the Act.

6. Cornish informed David Paul George Sidders (“**Sidders**”) and Patrick Jelf Caruso (“**Caruso**”), not in the necessary course of business, of the existence of these Transactions before these material facts were generally disclosed, in breach of subsection 76(2) of the Act.

## **Sidders**

7. During the Material Time, with knowledge of the Transactions provided to him by Cornish, Sidders traded in securities of reporting issuers with knowledge of a material fact with respect to the reporting issuers that had not been generally disclosed, in breach of subsection 76(1) of the Act.

## **Caruso**

8. During the Material Time, with knowledge of the Transactions provided to him by Cornish, Caruso traded in securities of reporting issuers with knowledge of a material fact with respect to the reporting issuers that had not been generally disclosed, in breach of subsection 76(1) of the Act, and traded in securities of an issuer with knowledge of a material fact with respect to the issuer that had not been generally disclosed, contrary to the public interest.

## **II. THE RESPONDENTS**

9. Hutchinson is a Canadian citizen and resides in Toronto. During the Material Time, she was employed as a legal assistant in the Law Firm. During the course of her employment, she provided assistance with merger and acquisition (“**M&A**”) transactions.

10. Cornish is a Canadian citizen and resides in Toronto. During the Material Time, Cornish was employed as an institutional trader at a Toronto brokerage firm (the “**Toronto Brokerage**”), and was registered with the Ontario Securities Commission (the “**Commission**”). Cornish maintained an institutional trading account at the Toronto Brokerage, where, through a profit-sharing agreement, he could realize trading profits from self-initiated trades.

11. Hutchinson has known Cornish for approximately 17 years. At the beginning of their relationship, they had resided together for approximately two years. During the Material Time, Hutchinson and Cornish were in regular and frequent contact.

12. Sidders is a United Kingdom resident who is currently domiciled in Bermuda. Cornish has known Sidders for approximately 17 years. During the Material Time, he was a close friend of Cornish. Sidders held at least two trading accounts at a Panama-based brokerage house (the “**Panamanian Brokerage**”). One of Sidders’ trading accounts was registered in his name, and the other was in his Panama-incorporated company (“**Sidders’ Company**”).

13. Caruso is a Canadian citizen, and resided in Toronto during the Material Time. Caruso met Cornish in the mid-1980s, and was a close friend of Cornish during the Material Time. Caruso holds trading accounts in his own name at Canadian brokerages; had trading accounts

under corporate entities he has created, including Riverview Capital Inc. (“**Riverview Capital**”); and has a trading account in the name of Q Capital Investments Ltd. (“**Q Capital**”), a British Virgin Islands-incorporated entity that Caruso incorporated on May 8, 2012. Q Capital’s trading accounts were held at an investment firm in Bermuda (the “**Bermudian Investment Firm**”).

### **III. TIPPING AND INSIDER TRADING**

#### **Hutchinson tipped Cornish**

14. During the Material Time, Hutchinson informed Cornish of the Transactions, as further detailed in paragraph 19.

#### **Cornish engaged in insider trading**

15. Cornish traded securities of reporting issuers involved in a certain number of the Transactions before they were generally disclosed.

#### **Cornish tipped Sidders and Caruso**

16. Cornish informed Sidders and informed Caruso of a certain number of the Transactions.

#### **Sidders engaged in insider trading**

17. With the knowledge of the Transactions provided to him by Cornish, Sidders traded in reporting issuers involved in the Transactions through his personal account and through Sidders’ Company account at the Panamanian Brokerage before the Transactions were generally disclosed.

#### **Caruso engaged in insider trading**

18. With the knowledge of the Transactions provided to him by Cornish, Caruso traded securities of reporting issuers and an issuer involved in the Transactions through his personal account and through the Q Capital account before the Transactions were generally disclosed.

#### **The tipping and trading in reporting issuers and an issuer**

19. The Respondents engaged in insider tipping and insider trading in relation to the securities of companies which were reporting issuers during the Material Time with the exception of Allergan Inc. (“**Allergan**”). Allergan was not a reporting issuer in Ontario during the Material Time; its shares were listed on New York Stock Exchange. The specific insider tipping and insider trading engaged in by Hutchinson, Cornish, Sidders and Caruso (collectively, the “**Respondents**”) occurred in relation to the Transactions as follows:

**Quadra FNX Mining Ltd.**

- (a) On December 6, 2011, KGHM Polska Miedz SA (“**KGHM**”) publicly announced that it had agreed to acquire all the outstanding shares of Quadra FNX Mining Ltd. (“**Quadra**”) for \$15.00 per share. Prior to the announcement, the transaction was confidential and had not been generally disclosed.
- (b) The Law Firm was retained by KGHM on the takeover of Quadra, and on October 14, 2011, the Law Firm opened a file. On October 19, 2011, Hutchinson became aware of this transaction and read and edited the transaction’s Arrangement Agreement, and assisted with other project documents after this date.
- (c) Between November 2, 2011 and December 5, 2011, there was frequent telephone contact between Hutchinson and Cornish. Also, between November 1, 2011 and December 3, 2011, there was frequent telephone contact between Cornish and Sidders, and between November 1, 2011 and December 6, 2011, there was frequent communication between Cornish and Caruso.
- (d) Between November 2, 2011 and December 5, 2011, Cornish accumulated Quadra securities through his institutional account at the Toronto Brokerage and earned a profit of approximately \$116,549.
- (e) Between November 8, 2011 and December 2, 2011, Sidders purchased shares of Quadra in his personal account at the Panamanian Brokerage.
- (f) On December 6, 2011, after the Quadra takeover announcement was made, Sidders sold his shares and realized a profit of approximately \$220,000.
- (g) Between November 24, 2011 and December 2, 2011, Caruso purchased and sold shares of Quadra through his Canadian brokerage account. Prior to the takeover announcement, he maintained a position of 3,800 shares.
- (h) On December 6, 2011, after the Quadra takeover announcement, Caruso liquidated his position, yielding an approximate \$23,600 profit.

**X Company**

- (a) On February 18, 2013, Y Company (“**Y Co.**”) sent a non-public confidential expression of interest letter to X Company (“**X Co.**”) to acquire X Co. for a combination of cash and Y Co. stock, which valued X Co. at approximately \$53.50U.S. per share. The disclosure of this letter was not made public. On

March 15, 2013, the board of directors of X Co. advised Y Co. that their offer was not sufficient to warrant further consideration.

- (b) The Law Firm was retained by Y Co., and had opened a file respecting this transaction on September 12, 2012. On January 11, 2013, Hutchinson was provided restricted electronic access to this M&A transaction project file. Between January 17, 2013 and March 14, 2013, there was frequent telephone contact between Hutchinson and Cornish. Between January 17, 2013 and March 15, 2013, there was frequent telephone communication between Cornish and Sidders and between Cornish and Caruso.
- (c) Between February 20, 2013 and February 22, 2013, Sidders bought 7,000 shares of X Co. in Sidders' Company account held at the Panamanian Brokerage.
- (d) On February 21, 2013, Caruso, through his Q Capital account, bought 15,000 shares of X Co. Q Capital also purchased put options on the acquiring firm, Y Co., and call options on X Co.

#### **Rainy River Resources Ltd.**

- (a) On May 31, 2013, Rainy River Resources Ltd. ("**Rainy River**") and New Gold Inc. ("**New Gold**") publicly announced that they had entered into a definitive acquisition agreement by which New Gold would acquire all the outstanding common shares of Rainy River for 0.5 of a common share of New Gold or \$3.83 in cash at the election of each shareholder. Prior to the announcement, the transaction was confidential and had not been generally disclosed.
- (b) The Law Firm was retained by Rainy River on May 14, 2013 to act on its acquisition by New Gold.
- (c) On May 23, 2013, Hutchinson accessed an index of transaction documents respecting the Rainy River transaction without editing them.
- (d) Between May 22, 2013 and May 29, 2013, Cornish was in telephone contact with Hutchinson.
- (e) Between May 24, 2013 and May 31, 2013, Cornish and Sidders were in telephone contact.
- (f) Cornish, through his institutional trading account, bought and sold shares of Rainy River on May 30, 2013, the day prior to the takeover announcement.

**Osisko Mining Corp.**

- (a) On April 16, 2014, Yamana Gold Inc. (“**Yamana**”) and Agnico Eagle Mines Ltd. (“**Agnico**”) announced that they have entered into an agreement pursuant to which Yamana and Agnico would jointly acquire Osisko Mining Corp. (“**Osisko**”) for an approximate value of \$8.15 per Osisko share. Prior to the announcement, the transaction was confidential and was not generally disclosed.
- (b) The Law Firm was retained by Agnico on January 16, 2014 as its legal counsel in connection with a possible acquisition of Osisko.
- (c) On April 14, 2014, Hutchinson became aware of this transaction. On this day, Hutchinson called Cornish twice, and Caruso called Cornish once. On April 15, 2014, there were 9 text messages exchanged between Cornish and Caruso between 9:34 a.m. and 10:57 a.m.; and one phone call at 11:27 a.m. from Caruso to Cornish. Hutchinson also called Cornish twice on this day.
- (d) Between April 14, 2014 and April 15, 2014, Caruso accumulated 70,000 Osisko shares in total between his Q Capital and personal Canadian brokerage accounts. On the announcement date, Caruso sold his shares for a profit of \$27,200.

**Allergan Inc.**

- (a) On April 22, 2014, Valeant Pharmaceuticals International, Inc. (“**Valeant**”) proposed to acquire Allergan from Pershing Square Capital Management, L.P. (“**Pershing**”) and other investors, where each Allergan share would be exchanged for \$48.30US in cash and 0.83 of a Valeant share. Prior to the announcement, the transaction was confidential and was not generally disclosed.
- (b) The Law Firm was retained by Pershing on February 14, 2014.
- (c) On April 21, 2014, the day prior to the Allergan takeover announcement, Hutchinson called Cornish twice, once at 8:47 a.m. and again at 9:31 a.m. Between 10:10 a.m. and 10:57 a.m., Caruso called Cornish three times. At 10:58 a.m., Caruso called the Bermudian Investment Firm. On this day, Caruso purchased 5,800 shares of Allergan in his offshore Q Capital account for approximately \$798,800U.S., and through his Canadian brokerage accounts, 2,700 shares of Allergan for approximately \$375,000U.S. On Allergan’s takeover

announcement date, Caruso sold the shares and made a profit of approximately \$205,000U.S.

#### **Aurora Oil & Gas Ltd.**

- (a) On February 6, 2014, Baytex Energy Corp. publicly announced their arrangement agreement to acquire Aurora Oil & Gas Ltd. (“**Aurora**”) for approximately \$4.10 Australian dollars per Aurora share. Prior to the announcement, the transaction was confidential and had not been generally disclosed.
- (b) The Law Firm was retained on November 18, 2013 by Aurora. On this date, Hutchinson accessed the “Matter Data Form” for this project.
- (c) On January 22, 2014, there was frequent contact between Cornish and Hutchinson and between Cornish and Caruso.
- (d) Between January 22, 2014 and January 27, 2014, Sidders purchased 10,000 Aurora shares through Sidders’ Company account held at the Panamanian Brokerage for \$27,700. On February 7, 2014, after the public announcement of the transaction, he liquidated his Aurora position, yielding a \$12,700 profit.
- (e) On January 27, 2014, Caruso purchased 10,000 shares of Aurora for \$26,800. On February 7, 2014, Caruso liquidated his position and made an approximate profit of \$13,800.

#### **Tim Hortons Inc.**

- (a) On August 26, 2014, Burger King Worldwide, Inc. (“**Burger King**”) announced that they agreed to acquire Tim Hortons Inc. (“**Tim Hortons**”) for approximately \$89.32 per share, through a combination of cash, and stock of the newly formed, corporate entity (the value was based on Burger King’s August 22, 2014 closing price). Prior to the announcement, the transaction was confidential and had not been generally disclosed.
- (b) On February 24, 2014, the Law Firm was retained by Burger King.
- (c) On February 24, 2014 and February 25, 2014, Cornish communicated with Hutchinson by phone three times and one time, respectively.
- (d) On February 24, 2014, around 8p.m., Cornish initiated communications with both Sidders and Caruso; Cornish and Caruso communicated through 6 text messages, and Cornish placed a 5 second call to Sidders.

- (e) On February 25, 2014, the day after the Law Firm was retained, Caruso places 5 calls to his Bermudian Investment Firm, starting at 9:48a.m., and purchased 380 call option contracts with a \$45U.S. strike price and an October 18, 2014 expiration date in his Q Capital account for approximately \$320,000U.S.
- (f) Between February 25, 2014 and September 11, 2014, Caruso, through his net accumulation of call option contracts and share purchases in Tim Hortons, made approximately \$1.29M U.S. in the Q Capital account, and \$128,000 in his Canadian brokerage accounts.
- (g) Through his institutional trading account at the Toronto Brokerage, Cornish made a net accumulation of 3,500 Tim Hortons shares prior to the takeover announcement. After the public announcement, Cornish sold those shares for an approximate \$128,012 trading profit in his institutional trading account.

#### **Xtreme Drilling and Coil Services Corp.**

- (a) On April 27, 2016, Schlumberger Limited (“**Schlumberger**”) publicly announced their definitive agreement to acquire XSR Coiled Tubing Services Segment from Xtreme Drilling and Coil Services Corp. (“**Xtreme**”) for approximately \$205M.
- (b) The Law Firm was retained by Schlumberger on May 6, 2015. On September 4, 2015, Hutchinson became aware of the transaction.
- (c) Between October 5, 2015 and April 26, 2016, Caruso, through his Q Capital account, his Riverview Capital brokerage account, and personal brokerage accounts accumulated over 140,000 Xtreme shares. Caruso sold these shares after the announcement and realized an approximate profit of over \$30,000.

#### **IV. MONEY TRANSFERS TO CORNISH**

20. Between August 2011 and August 2013, Cornish held a bank account in the name of a defunct company, 1206148 Ontario Limited (“**1206148**”), and received 40 electronic fund transfers from the Panamanian Brokerage totalling approximately \$220,000, in amounts that all fell below FINTRAC’s \$10,000 reporting requirement.

21. Between July 2011 and October 2011, Cornish received approximately \$123,000 from the Panamanian Brokerage to cover his personal trading losses realized at the Toronto Brokerage.

### **Other Cornish fund transfers**

22. Between May 2014 and July 2014, Caruso's company, Riverview Capital, issued two cheques to Cornish's numbered company, 1206148, for a total amount of \$15,000.

23. Between February 23, 2011 and July 28, 2011, Cornish's former roommate, Person K, received 10 wire transfers totalling \$86,500 from the Panamanian Brokerage. Between April 21, 2011 and July 29, 2011, Cornish and 1206148 were 3 issued cheques by Person K, for a total amount of \$17,200.

### **V. PERSONS IN A SPECIAL RELATIONSHIP**

24. As an employee of the Law Firm, Hutchinson became a person in a special relationship with the reporting issuers involved in the Transactions pursuant to subsection 76(5)(c)(iv) of the Act.

25. By virtue of subsection 76(5)(e) of the Act, Cornish became a person in a special relationship with each of the issuers involved in the Transactions as he knew or ought reasonably to have known that Hutchinson was a person in a special relationship with the reporting issuers involved in the Transactions.

26. By virtue of subsection 76(5)(e) of the Act, Sidders and Caruso each became a person in a special relationship with each of the reporting issuers in the Transactions as Sidders and Caruso knew or ought reasonably to have known that Cornish was a person in a special relationship with the reporting issuers.

### **VI. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST**

27. By informing other persons of a material fact with respect to one or more of the reporting issuers, prior to that information being generally disclosed, Hutchinson and Cornish engaged in illegal insider tipping, in breach of subsection 76(2) of the Act, and thereby engaged in conduct contrary to the public interest.

28. By trading securities of one or more of the reporting issuers with knowledge of a material fact obtained from persons who Cornish, Sidders and Caruso knew or ought reasonably to have known were in a special relationship with the reporting issuer, that had not been generally disclosed, Cornish, Sidders, and Caruso engaged in illegal insider trading, in breach of subsection 76(1) of the Act, and thereby engaged in conduct contrary to the public interest.

29. By trading in securities of the issuer, Allergan, a U.S. issuer, with knowledge of a material fact obtained from a person Caruso knew or ought reasonably to have known was in a special relationship with the issuer that had not been generally disclosed, Caruso engaged in conduct contrary to the public interest.

30. Such additional allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 28<sup>th</sup> day of May, 2018.