



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF
SHANE DAVID YAWRENKO and
UMBRELLA MERCHANT SERVICES INC.**

**STATEMENT OF ALLEGATIONS
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990 c S.5)**

1. Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**) elect to proceed using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Commission's *Rules of Procedure*.

A. ORDER SOUGHT

2. Staff request that the Commission make the following inter-jurisdictional enforcement order, pursuant to paragraph 5 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990 c S.5 (the **Act**):

(a) against Shane David Yawrenko (**Yawrenko**) that:

- i. pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in any securities or derivatives, or acquisition of securities, by Yawrenko cease until August 17, 2023, except that he may trade in securities or derivatives through a registrant who has first been given copies of the Settlement Agreement and Undertaking between Yawrenko, Umbrella Merchant Services Inc. (**Umbrella**) and the Alberta Securities Commission (the **ASC**)

dated August 17, 2018 (the **Settlement Agreement**), and the order of the Commission in this proceeding, if granted;

- ii. pursuant to paragraph 3 of subsection 127(1) of the Act, all exemptions contained in Ontario securities law do not apply to Yawrenko until August 17, 2023;
 - iii. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Yawrenko resign any positions that he holds as a director or officer of any issuer or registrant;
 - iv. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Yawrenko be prohibited from becoming or acting as a director or officer of any issuer or registrant until August 17, 2023; and
 - v. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Yawrenko be prohibited until August 17, 2023 from becoming or acting as a registrant or promoter;
- (b) against Umbrella that:
- i. pursuant to paragraph 3 of subsection 127(1) of the Act, all exemptions contained in Ontario securities law do not apply to Umbrella until August 17, 2023;
- (c) such other order or orders as the Commission considers appropriate.

B. FACTS

Staff make the following allegations of fact:

3. On August 17, 2018, Yawrenko and Umbrella (together, the **Respondents**) entered into the Settlement Agreement with the ASC.
4. Pursuant to the Settlement Agreement, the Respondents each agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.

(i) The ASC Proceeding

Agreed Facts

5. In the Settlement Agreement, the Respondents agreed with the following facts:

Parties

- (a) Yawrenko is an individual who resides in Edmonton, Alberta.
- (b) Yawrenko is and was the sole director and guiding mind of Umbrella. As such, Yawrenko authorized, permitted or acquiesced in the conduct of Umbrella as described within the Settlement Agreement.
- (c) Umbrella was incorporated in Alberta on April 30, 2013 with its registered office in Edmonton, Alberta.

Circumstances

- (d) Umbrella purported to be in the business of raising money for a business venture in Mexico related to point-of-sale technology and advertising for taxi cabs.
- (e) Between May 2013 and July 2016, Umbrella raised approximately \$2,139,500 from at least 33 investors, most of whom were Alberta residents, in exchange for common shares of Umbrella.
- (f) Yawrenko met with prospective investors, promoted and negotiated the sale of Umbrella shares, and handled or provided directions for invested capital. In exchange for their invested capital, the investors signed a subscription agreement for common shares of Umbrella.
- (g) The Umbrella shares were securities. The sale of Umbrella shares were trades as defined in the *Alberta Securities Act*, RSA 2000 c S-4 (the **Alberta Act**). As first trades in securities that had not been

previously issued, the trades were distributions as defined in the Alberta Act.

- (h) At no time did the Respondents file a preliminary prospectus or prospectus with the ASC's Executive Director or receive a receipt for same.
- (i) Exemptions were not available to at least half of the investors who invested in Umbrella.

Admitted Breaches of Alberta Securities Laws

- (j) Based on the Agreed Facts, the Respondents admitted that they breached section 110(1) of the Alberta Act by distributing securities without having filed and received a receipt for a preliminary prospectus or a prospectus, and without an exemption from that requirement for some of those distributions.

Circumstances Relevant to Settlement

- (k) Neither of the Respondents has been previously sanctioned by the ASC.
- (l) The Settlement Agreement saved the ASC the time and expense associated with a contested hearing under the Alberta Act.

(ii) Settlement and Undertakings

6. Based on the Agreed Facts and Admitted Breaches:

- (a) the Respondents agreed and undertook to the ASC's Executive Director to jointly and severally pay to the ASC the amount of \$55,000 in settlement of all allegations against them;
- (b) Yawrenko agreed and undertook to the ASC's Executive Director to refrain for a period of five years from the date of the Settlement Agreement from:

- i. trading in and purchasing securities or derivatives, except trades made through a registrant who has first been given a copy of the Settlement Agreement;
 - ii. using any of the exemptions contained in Alberta securities laws;
 - iii. becoming or acting as a director or officer (or both) of any issuer, registrant or investment fund manager in Alberta or elsewhere in Canada and to resign any positions he has as a director or officer, or both, of any issuer, registrant, or investment fund manager;
 - iv. becoming or acting as a registrant, investment fund manager or promoter; and
 - v. acting in a management or consultative capacity in connection with activities in the securities market;
- (c) Umbrella undertook and agreed to the ASC's Executive Director to refrain from using any of the prospectus and registration exemptions contained in Alberta securities laws for a period of five years from the date of the Settlement Agreement.

C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

- 7. Pursuant to the Settlement Agreement, the Respondents each agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
- 8. Pursuant to paragraph 5 of subsection 127(10) of the Act, an agreement with a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that a person or company is to be made subject to sanctions, conditions, restrictions or requirements may form the basis for an order in the public interest made under subsection 127(1) of the Act.

9. Staff allege that it is in the public interest to make an order against the Respondents.
10. 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.

DATED at Toronto this 2nd day of May, 2019.

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