



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**In the Matter of Staff's Recommendation
To Suspend the Registration
of Todd Milligan**

**Opportunity to be heard by the Director under
Section 31 of the *Securities Act* (Ontario)**

Decision

1. For the reasons outlined below, my decision is that the registration of Todd Milligan (**Milligan**) be suspended for a period three months.

Background

2. By letter dated March 14, 2018, staff (**Staff**) of the Ontario Securities Commission (**Commission**) advised Milligan that it had recommended to the Director that his registration as a mutual fund dealing representative with Quadrus Investment Services Inc. (**Quadrus**) be suspended for a period of six months. Staff provided three primary bases for this recommendation. First, Milligan failed to disclose a criminal charge, second, Milligan failed to comply with the policies and procedures of Quadrus, and lastly, Milligan made untrue statements to Staff.
3. Pursuant to section 31 of the *Securities Act* (Ontario) (**Act**), Milligan is entitled to an opportunity to be heard (**OTBH**) before I, as Director, decide whether to accept Staff's recommendation. The OTBH occurred on May 9, 2018. Staff was represented by Mark Skuce, Senior Legal Counsel in the Compliance and Registrant Regulation Branch of the Commission. Milligan appeared on his own behalf.

Brief outline of relevant facts

4. The facts of this case are straightforward. On February 26, 2016, Milligan was informed by the police that he was being charged with disobeying a court order by sending an email to his ex-wife. After an administrative delay, Milligan was charged on May 4, 2016 with one count of disobeying a lawful order of the court, contrary to subsection 127(1) of the *Criminal Code*. Milligan's first documented appearance in court in relation to this charge was on June 22, 2016. On July 20, 2016, Milligan pled guilty to the charge and received a conditional discharge. Neither the charge nor the outcome of the charge was reported to the Commission on a timely basis, as required by section 4.1 of National Instrument 33-109 *Registration Information* (**NI 33-109**).
5. Staff became aware of the lack of disclosure during a normal course check following a request by Quadrus on July 21, 2017 to have close supervision terms and conditions removed from Milligan's registration. The close supervision terms and conditions were imposed by Staff following a disclosure by Milligan on May 5, 2016 on Form 33-109F5 *Change of Registration Information* disclosing that on April 18, 2016, Milligan had made a voluntary assignment into bankruptcy. On January 31, 2017, an additional F5 was delivered to the Commission disclosing that Milligan had been discharged from bankruptcy, effective January 19, 2017.

Submissions

Mandate of the Commission

6. The mandate of the Commission includes protecting investors from unfair, improper or fraudulent practices. It is well established that registration is a privilege and not a right. Paragraph 28(a) of the Act provides that the Director may suspend the registration of an individual if it appears to the Director that the individual is not suitable for registration or has failed to comply with Ontario securities law, or the registration is otherwise objectionable. The factors to be considered by the Director in determining suitability for registration are found in section 27(2) of the Act and include proficiency, solvency and integrity, and such other factors as the Director considers relevant. Staff submits that Milligan failed to comply with Ontario securities law, that he is not suitable for registration because his conduct fell short of what's expected and he therefore lacks integrity, and that his ongoing registration is otherwise objectionable.

Failure to disclose criminal charge on a timely basis

7. The facts were clear on this point and acknowledged by Milligan. He did not file the required disclosures on a timely basis. In fact, the information that was required to be disclosed was independently discovered by Staff, and the requisite disclosures were not provided until after Milligan was interviewed by Staff. As a result, I find that Milligan failed to comply with Ontario securities law.
8. Staff's views on failure to disclose changes in registration information are clear and are set out in CSA Staff Notice 33-320 *The Requirement for True and Complete Applications for Registration*. Although the notice deals primarily with initial applications for registration, the Notice states that "registrants should consider the guidance in this Notice as generally applicable to all registration-related documents they are required to deliver to their securities regulatory authority under applicable legislation". The Notice also states that:

Similarly, if Staff discovers after an individual has become registered that... they have failed to meet their ongoing disclosure obligation, the matter will be investigated and could result in regulatory action being taken against the registrant, including a possible suspension of registration.

Misrepresentation made to Quadrus

9. Milligan has been registered with Quadrus since May 2002. He is also an employee of Quadrus' sister company, London Life, as an insurance salesman. Staff submitted, and Milligan agreed, that he did not disclose either the 2016 charge (or the conditional discharge) to either Quadrus or London Life as required by the policies and procedures of both entities. Staff further submitted that Milligan's signing off of the electronic codes of conduct of both entities, falsely represented to Quadrus and London Life that he was in compliance with their codes of conduct.

Untrue statements made to Staff

10. Staff submitted that Milligan made several untrue statements to them in the course of Staff's interview with him. The statements made related to statements Milligan said were made by the court in the hearing related the criminal charge referred to above. Staff's view is that the statements made by Milligan appear to minimize the gravity of the matter and appear to have been intended to convey to Staff the impression that the criminal charge was dismissed by the court. Staff subsequently reviewed the transcript from the July 20, 2016 guilty plea where Milligan received a conditional discharge and did not find the statements made by Milligan in the transcript.

Integrity of Milligan

11. Staff submits that Milligan lacks integrity because his conduct in failing to provide appropriate disclosure to his sponsoring firm and the Commission fell short of what the Commission expects of a registrant. Staff also submits that whether or not the failure to disclose resulted from forgetfulness, the conduct cannot be excused.

Reasons for decision

12. My decision is that the registration of Milligan should be suspended for a period of three months.
13. It was clear to me that Milligan did not make the required disclosures on a timely basis. It was also clear to me that Milligan did not comply with the policies and procedures of Quadrus, a registered firm. Milligan claimed he forgot to make the disclosures. Staff submitted that the failure to disclose was not a technical breach of the registration requirements and that failure to make required regulatory filings was a matter of serious concern to Staff.
14. Staff argued that the appropriate suspension term fell between three and nine months. They referred me to two cases in particular. In the case of *Re Nyren*, (2001) IDACD No 27, Nyren was (under the terms of an amended settlement agreement) suspended for three months by the Pacific District Council of what was then known as the Investment Dealers of Association of Canada (**Association**) for falsifying examination results and then representing to Association staff that the false results were true. In the case of *Re Obasi* (2011) 34 OSCB 3012, Obasi was suspended for nine months for forging two clients' signatures, asking one of the clients to cover up his misconduct by lying to his sponsoring firm, and lying to Staff when questioned about the forgery.
15. In my view, a suspension period of three months is appropriate as the particular circumstances of this case can be distinguished from the precedents of *Re Nyren* and *Re Obasi*. The term of suspension for *Re Nyren* was arguably impacted by the panel's view of the way in which the matter was handled by staff of the Association. Additionally, the theme of falsification that runs through both *Re Nyren* and *Re Obasi* are absent in this matter.
16. In my view, this decision strikes the appropriate balance between general and specific deterrence. Milligan clearly failed to meet his ongoing registration obligations by failing to disclose a criminal charge, and later on, the conditional discharge. However, Milligan was forthright in the OTBH regarding his failure to disclose the criminal charge (and the conditional discharge), took responsibility for his failure to comply with Ontario securities law, accepted that he should be reprimanded for his conduct, and appeared genuinely remorseful. In addition, Milligan's regulatory record is clean, other than his failure to disclose this charge and the conditional discharge. In my view, he is unlikely to repeat this misconduct in the future. Accordingly, I do not find Milligan's ongoing registration to be objectionable and believe that a three month suspension is appropriate in dealing with his past conduct both from a specific deterrence and general deterrence perspective.
17. I decided not to find Milligan guilty of providing untrue statements to Staff. While the statements made by Milligan to Staff were not word for word found in the transcript of the July 20, 2016 court proceeding, my review of the transcript indicates that the tone and tenor of the comments made by the court were not substantially different from the tone and tenor of the statements made by Milligan in his interview with Staff.
18. Lastly, I want to deal specifically with Staff's submissions that Milligan's conduct in this matter impugned his integrity. I agree that Milligan's failure to provide appropriate disclosure fell short of what the Commission expects of a registrant. However given Milligan's prior clean regulatory record, his demonstrated remorsefulness and the specific facts of this case, I had difficulty finding that Milligan impugned his integrity. As above, I believe a three month suspension is the appropriate sanction in the circumstances of this case. It is important for registrants to know that the Commission takes ongoing registration requirements seriously, including the requirement to disclose criminal

charges. Registrants must update their registration information on a timely basis. Failure to do so will result in regulatory consequences, up to and including suspension or termination of registration.

“Marriane Bridge”, FCPA, FCA
Deputy Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission
Dated: May 30, 2018