



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  
IAC - INDEPENDENT ACADEMIES CANADA INC., MICRON SYSTEMS INC.,  
THEODORE ROBERT EVERETT and ROBERT H. DUKE**

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

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

**I. OVERVIEW**

1. IAC – Independent Academies Canada Inc. (“IAC”), Micron Systems Inc. (“Micron”), Theodore Robert Everett (“Everett”) and Robert H. Duke (“Duke”) (collectively the “Respondents”), are subject to an order made by the British Columbia Securities Commission (“BCSC”) dated July 3, 2014 (the “BCSC Order”) that imposes sanctions, conditions, restrictions or requirements upon them.
2. In its findings on liability dated March 13, 2014 (the “Findings”), a panel of the BCSC (the “BCSC Panel”) found that between April 2002 and July 2011, IAC, Everett and Duke engaged in an illegal distribution of securities, and that between November 2009 and July 2011, all of the Respondents perpetrated a fraud.
3. The BCSC Panel further found that Micron, Everett and Duke contravened an existing cease trade order with respect to IAC securities issued by the BCSC on July 19, 2011 (the “July 2011 CTO”).

4. Staff are seeking an inter-jurisdictional enforcement order reciprocating the BCSC Order, pursuant to paragraph 4 of subsection 127(10) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”).
5. The conduct for which the Respondents were sanctioned took place between April 2002 and July 2011 (the “Material Time”).
6. IAC and Micron were both incorporated in British Columbia. IAC is a subsidiary of Micron. Neither IAC nor Micron has ever been registered under the British Columbia *Securities Act*, RSBC 1996, c. 418 (the “BC Act”).
7. Everett is a resident of British Columbia. During the Material Time, Everett was a director and officer of both IAC and Micron.
8. Duke is a resident of British Columbia. During the Material Time, Duke was a director and officer of IAC, and a director of Micron.
9. In 2006, IAC acquired Sage Hills, a 2,040-acre property in the Comox Valley, British Columbia, purportedly for the development of a mixed-use community, which was to include private schools, golf courses, over 5,000 residential units and a commercial village.
10. Everett and Duke admitted that during the Material Time, IAC distributed securities to 126 investors for proceeds of \$5.1 million, without filing a prospectus and without the availability of any prospectus exemptions.
11. Everett and Duke also admitted that they contravened the July 2011 CTO issued against IAC by distributing promissory notes to existing IAC investors for proceeds of \$195,000. These promissory notes included a promise by Micron to issue IAC shares to the investors immediately or in the future.
12. In October 2007, IAC granted a mortgage on the Sage Hills property to Liberty Excell Mortgage Corp. (“Liberty”). IAC subsequently defaulted on the mortgage payments, and in November 2009, Liberty commenced foreclosure proceedings, resulting in a sale of the

Sage Hills property in September 2012. None of the Respondents disclosed the foreclosure to investors.

13. The BCSC Panel found that between November 2009 and July 2011, Everett and Duke perpetrated a fraud by continuing to distribute securities to 55 investors for proceeds of \$1.45 million without disclosing Sage Hills foreclosure.

## **II. THE BCSC PROCEEDINGS**

### **The BCSC Findings**

14. In its Findings, the BCSC Panel found the following:
  - a. IAC, Everett and Duke distributed securities without having filed a prospectus, in contravention of section 61(1) of the BC Act;
  - b. Micron, Everett and Duke contravened the July 2011 CTO; and
  - c. Everett, Duke, IAC and Micron perpetrated a fraud, contrary to section 57(b) of the BC Act.

### **The BCSC Order**

15. The BCSC Order imposed the following sanctions, conditions, restrictions or requirements:
  - a. upon IAC and Micron:
    - i. pursuant to section 161(1)(b)(i) of the BC Act, that all persons cease trading in, and are prohibited from purchasing, securities of IAC and Micron, permanently;
    - ii. pursuant to section 161(1)(b)(ii) of the BC Act, that IAC and Micron permanently cease trading in, and are permanently prohibited from purchasing, securities and exchange contracts;

- iii. pursuant to section 161(1)(d)(v) of the BC Act, that IAC and Micron are permanently prohibited from engaging in investor relations activities;
  - iv. pursuant to section 161(1)(g) of the BC Act, and subject to paragraph 15(c), that IAC and Micron pay to the BCSC any amount obtained, or payment or loss avoided, directly or indirectly as a result of the Respondents' contraventions of the BC Act, which the BCSC Panel found to be not less than \$5,433,189;
- b. upon Everett and Duke:
- i. pursuant to section 161(1)(b)(ii) of the BC Act, that Everett and Duke permanently cease trading in, and are permanently prohibited from purchasing, securities and exchange contracts;
  - ii. pursuant to sections 161(1)(d)(i) and (ii) of the BC Act, that Everett and Duke each resigns any position he holds as, and is permanently prohibited from becoming or acting as, a director or officer of any issuer or registrant;
  - iii. pursuant to section 161(1)(d)(iv) of the BC Act, that Everett and Duke are permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
  - iv. pursuant to section 161(1)(d)(v) of the BC Act, that Everett and Duke are permanently prohibited from engaging in investor relations activities;
  - v. pursuant to section 161(1)(g) of the BC Act, and subject to paragraph 15(c), that each of Everett and Duke pay to the BCSC any amount obtained, or payment or loss avoided, directly or indirectly

as a result of the Respondents' contraventions of the BC Act, which the BCSC Panel found to be not less than \$5,433,189;

- vi. pursuant to section 162 of the BC Act, that Everett and Duke are jointly and severally liable to pay to the BCSC an administrative penalty of \$7 million;

*Maximum amounts*

- c. IAC, Micron, Everett and Duke are jointly and severally liable to pay to the BCSC the amounts in paragraphs 15(a)(iv) and 15(b)(v).

### **III. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION**

- 16. The Respondents are subject to an order of the BCSC that imposes sanctions, conditions, restrictions or requirements upon them.
- 17. Pursuant to paragraph 4 of subsection 127(10) of the Act, an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements may form the basis for an order in the public interest made under subsection 127(1) of the Act.
- 18. Staff allege that it is in the public interest to make an order against the Respondents.
- 19. 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.
- 20. 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*.

**DATED** at Toronto, this 27<sup>th</sup> day of October, 2014.