

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, AS AMENDED**

AND

**JOSEPH EDWARD ALLEN, ABEL DA SILVA,
CHATERAM RAMDHANI AND SYED KABIR**

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

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

I. BACKGROUND

1. The respondent Joseph Allen (“Allen”) is a businessman who, personally and through employed salespeople, sells private placement investments to investors in Ontario and in other provinces, including Alberta, Prince Edward Island and British Columbia. These sales are conducted from business premises in Toronto.
2. Allen’s registration history with the Ontario Securities Commission (the “Commission”) is as follows:
 - a) from October 20, 1994 to April 15, 1998, Allen was registered as a salesperson with Marchmont & Mackay Limited, a dealer in the category of securities dealer; and

- b) from April 16, 1998 to June 30, 2000, Allen was registered as a salesperson with C.J. Elbourne Securities Inc., a dealer in the category of securities dealer;
 - c) On or about January 12, 2001, Allen was advised that Staff recommended to the Director a denial, on suitability grounds, of Allen's application to transfer his registration to be sponsored by Union Securities Inc. Allen requested an opportunity to be heard by the Director, but subsequently withdrew that application.
3. The respondents Abel Da Silva, Chateram Ramdhani and Syed Kabir (the "Salesmen") are salespeople hired by Allen to sell private placement investments to investors in Ontario and elsewhere.
4. The respondent Abel da Silva ("da Silva") has not previously been registered with the Commission.
5. The respondent Chateram Ramdhani ("Ramdhani") has the following registration history with the Commission:
- a) from November 6, 1997 to February 3, 1998, as a salesperson with A.C. MacPherson & Co. Inc., a dealer in the category of investment dealer;
 - b) from May 5, 1998 to April 6, 1999, as a salesperson with Gordon-Daly Grenadier Securities, a dealer in the category of securities dealer;
 - c) from May 27, 1999 to July 5, 2000, as a salesperson with C.J. Elbourne Securities Inc., a dealer in the category of securities dealer;
 - d) by Order dated February 4, 2002, Ramdhani's application for registration as a salesperson with Anchor Securities Limited was denied; and
 - e) from February 20, 2003 to April 24, 2003, as a salesperson with Northern Securities Inc., a dealer in the categories of broker and investment dealer. Ramdhani's registration was subject to restrictions imposed by the

Investment Dealers Association of Canada, including requirements that, for a three year period, Ramdhani was not permitted to participate in any principal trading activities, and a requirement for monthly reporting of his sales and client service activities.

6. The respondent Syed Kabir (“Kabir”) has the following registration history with the Commission:

- a) from September 10, 1992 to January 4, 1993, as a salesperson with A.C. MacPherson & Co. Inc., a dealer in the category of securities dealer;
- b) from December 10, 1993 to January 24, 1994, as a salesperson with Norwich Securities Ltd., a dealer in the category of securities dealer;
- c) from January 5, 1995 to October 17, 1997, as a salesperson with Glendale Securities Inc., a dealer in the category of securities dealer;
- d) from February 4, 1998 to July 10, 1998, as a salesperson with Glendale Securities Inc., a dealer in the category of securities dealer; and
- e) from July 21, 1998 to May 5, 2000, as a salesperson with C.J. Elbourne Securities Inc., a dealer in the category of securities dealer.

7. At all material times, Allen and the Salesmen were not registered with the Commission.

8. Andromeda Media Capital Corporation (“Andromeda”) is an Ontario corporation, which is a reporting issuer in Saskatchewan. Andromeda has never filed a preliminary prospectus or a prospectus with the Commission. As described below, Andromeda has delivered an offering memorandum for a private placement of securities to the Commission.

II. SALES OF COMMON SHARES OF ANDROMEDA

9. Andromeda hired a consultant to advise on available methods for raising capital. Based on the consultant's advice, Andromeda concluded that it would pursue sales of its common shares to accredited investors, pursuant to the requirements of Ontario Securities Commission Rule 45-501.

10. On August 19, 2002, Andromeda issued a private offering memorandum for the sale to accredited investors of a maximum of 2 million common shares of the company at a price of \$1.00 per share. The offering memorandum was delivered to the Commission in or about May 2003.

11. Andromeda's consultant referred Andromeda to Joseph Allen, who was described as an "expert in the raising of capital for junior public companies by way of the 'Accredited Investor' exemption."

12. Based on this referral, on August 23, 2002, Allen entered into an agreement (the "Business Consultant Agreement") with Andromeda whereby Allen agreed to "refer potential investors to the Company and discuss the merits of the Company with potential and existing investors". Allen agreed to work for 160 hours per month for approximately 6 to 8 months. Allen's agreed compensation for his services was 60 percent of the proceeds of the offering.

13. Pursuant to the Business Consultant Agreement, between September 2002 and June 2003, Allen and his employees (including the respondent Salesmen) undertook a sales process for Andromeda's common shares, as follows. Allen sent brochures to potential investors whose names were obtained from a purchased list. Allen, or a salesperson employed by Allen, then made a follow-up phone call to the potential investor. Following the phone call, Allen or his salesperson would courier an "invoice" for the purchase price, together with a subscription agreement. Allen collected and forwarded to Andromeda signed subscription agreements and photocopies of the

investors' cheques (made payable to Andromeda, and already deposited into a bank account in Andromeda's name).

III. REPRESENTATIONS TO POTENTIAL INVESTORS

14. During their sales promotions of Andromeda shares, the respondents adopted a high-pressure sales approach. Their sales approach included making representations to potential investors that Andromeda's shares would be listed for trading in the future.

15. Additionally, the respondents provided investors with inaccurate and misleading information about Andromeda and its common shares, including:

- a) that Andromeda had a major contract with Bell Mobility;
- b) that Andromeda's shares were heavily traded on the OTC market; and
- c) that large institutional investors would soon purchase a large block of Andromeda's shares.

16. These representations were designed to induce potential investors to purchase Andromeda's common shares.

17. The respondents did not, at any time, disclose to investors that they would receive commissions on the sales of Andromeda securities, nor the rate of commission that was payable to Allen under the Business Consultant Agreement.

IV. CAPITAL RAISED

18. Through the sales efforts of Allen and salespeople employed by him, the Andromeda common share offering raised \$1,080,000.00 from approximately 240 investors. Andromeda filed a Form 45-501F for each Ontario investor, certifying that the investor purchased the common shares pursuant to the accredited investor exemption; Allen was represented on those forms to be the sales agent for Andromeda.

19. Allen was paid \$613,000.00 in commission by Andromeda, pursuant to the Business Consulting Agreement.

20. The respondents sold Andromeda's common shares to accredited investors and also to investors who were not accredited investors.

21. Andromeda attempted to contact and interview its investors, and refunded investments to those investors that it determined did not qualify as accredited investors. The total refunded was approximately \$57,000.00 to 14 investors. Andromeda subsequently declared the offering closed.

22. In addition to Andromeda's common shares, securities of one or more of the following corporations were sold to investors by the respondents: Oxford Software Developers Inc., Oxford Investments Holdings Inc., Alliance Explorations Ltd., and Instadial Technologies Corp.

V. CONDUCT CONTRARY TO THE ACT AND THE PUBLIC INTEREST

23. At the time of the trades described above, the respondents were not registered to trade in securities pursuant to Ontario securities law.

24. By engaging, and holding themselves out as engaging, in the business of trading in securities as agents for Andromeda and others, the respondents have acted as market intermediaries, as defined in s. 204 of the Regulation to the Act, R.R.O. 1990, Regulation 1015. As such, the accredited investor exemption from the registration requirements in Ontario securities law was not available for the sale of those securities by the respondents, by virtue of section 3.4 of Ontario Securities Commission Rule 45-501.

25. By engaging in the trades described above without being registered:

- a) as a limited market dealer, in respect of sales to accredited investors; or
- b) as a broker, in respect of sales to investors who do not qualify as accredited investors,

the respondents have breached s. 25(1) of the Act, and have engaged in conduct contrary to the public interest.

26. The sales of Andromeda's common shares by the respondents constituted trades in securities of an issuer that had not been previously issued. By engaging in a distribution of securities to those investors who did not qualify as accredited investors and for which no other exemption was available under the Act, the respondents violated s. 53 of the Act.

27. The misrepresentations described in paragraphs 9 and 10 above are a breach of s. 38 of the Act, and contrary to the public interest.

28. The respondents' failure to disclose the commissions that they would be paid for Andromeda sales was a breach of s. 36 of the Act, and contrary to the public interest.

29. The respondents benefited financially from their misconduct. Between September 2002 and June 2003, Andromeda paid Allen in excess of \$600,000 for his services. Those proceeds were used by Allen to pay the respondent Salesmen.

30. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 5th day of November, 2004