



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 Y**

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**ORDER**  
**(Section 17 of the *Securities Act*)**

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**WHEREAS** Y was the subject of a proceeding before the Ontario Securities Commission (the “Commission”), commenced by a Notice of Hearing and accompanied by a Statement of Allegations issued by Staff with respect to Y, other individual respondents and Z Corporation, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), which is now a completed matter (the “Commission Proceeding”);

**AND WHEREAS** an application (the “Application”) was made by the Royal Canadian Mounted Police (the “Applicant”) for an order pursuant to subsection 17(1) of the Act authorizing the Applicant to use and disclose testimonial and documentary evidence of persons identified as C1, C3, C5, C6, C10, C11, C14, and N9 that was obtained by Staff of the Commission (“Staff”) in respect of the subject matter of the Commission Proceeding under an order of the Commission made pursuant to section 11 of the Act, and to use and disclose the fact that N2/05 and O4 provided compelled testimony pursuant to section 13 of the Act in accordance with a Summons issued by the Commission, in order to provide assistance to the Applicant and Crown counsel in the criminal trial arising out of charges laid against Y under section 380(1)(a) of the *Criminal Code* (the “Criminal Proceeding”);

**AND WHEREAS** the Commission heard the Application at a hearing held *in camera* on November 20, 2008;

**AND WHEREAS** subsequent to the hearing an additional Application (together the “Applications”) was made requesting an order pursuant to subsection 17(1) of the Act authorizing the Applicant to use and disclose testimonial and documentary evidence of a person identified as N6;

**AND WHEREAS** on January 9, 2009, the Commission issued an Order with respect to the Applications;

**AND WHEREAS** on February 25, 2009 a new application was made requesting an order pursuant to subsection 17(1) of the Act authorizing the Applicant to use and disclose testimonial and documentary evidence of a person identified as O3;

**AND WHEREAS** on February 26, 2009 a new application was made requesting an order pursuant to subsection 17(1) of the Act authorizing the Applicant to use and disclose testimonial and documentary evidence of a person identified as N5/O6;

**AND WHEREAS** on March 11, 2009 a new application was made requesting an order pursuant to subsection 17(1) of the Act authorizing the Applicant to use and disclose testimonial and documentary evidence of a person identified as O2 (the new applications with respect to O3, N5/O6 and O2 are referred to, collectively, as the “New Applications”);

**AND WHEREAS** the specific materials that are the subject of the New Applications with respect to O3, N5/O6 and O2 are transcripts of examinations conducted under section 13 of the Act, documents that were the subject of the examinations, and other documents produced (the “Evidence”);

**AND WHEREAS** O3, N5/O6 and O2 received notice of the hearing but did not appear at the hearing;

**AND WHEREAS** O3, N5/O6 and O2 have provided written consent to the order sought by the Applicant in respect of all information provided by them to the Commission;

**AND WHEREAS** in furtherance of the New Applications, Staff requests an Order under subsection 17(1) of the Act authorizing Staff to disclose the Evidence;

**AND WHEREAS** the Applicant has provided draft orders with the New Applications, which outline conditions for the use and disclosure of the Evidence in order to attempt to minimize the harm to O3, N5/O6 and O2;

**AND WHEREAS** it would be in the public interest to grant the relief sought by the Applicant in respect of O3, N5/O6 and O2;

**IT IS ORDERED THAT**, pursuant to paragraph 17(1)(b) of the Act:

1. Staff may disclose to the Applicant and Crown counsel the Evidence provided by O3, N5/O6 and O2 that was obtained by Staff pursuant to section 13 of the Act in accordance with a Summons;
2. Disclosure and use of the Evidence will be on the basis that:
  - a. The Applicant and Crown Counsel will not use the Evidence other than as expressly permitted by this Order;
  - b. Except as expressly permitted by this Order, the Evidence shall be kept confidential;
  - c. Any use of the Evidence other than as expressly permitted by this Order will constitute a violation of this Order;
  - d. The Applicant and Crown counsel shall maintain custody and control over the Evidence so that copies of the Evidence and any other information in their possession which was obtained pursuant to or as a result of this Order are not disclosed or disseminated for any purpose other than the use expressly permitted by this Order;
  - e. Crown counsel will not file any part of the Evidence on the public record in the Criminal Proceeding unless it is necessary;
  - f. The Evidence shall not be used for any collateral or ulterior purpose;

- g. The Applicant and Crown counsel shall, promptly after the completion of the trial and any appeals in the Criminal Proceeding, return all copies of the Evidence to Staff or confirm in writing that they have been destroyed; and
- h. This Order does not affect any rights the Respondents may have relating to protection against self-incrimination granted by the *Canadian Charter of Rights and Freedoms* and the *Evidence Act of Ontario*.
- i. This Order does not affect the prohibition on use of compelled testimony contained in section 18 of the Act.
- j. This Order does not affect the obligation of the Crown to make appropriate disclosure in the Criminal Proceeding.

**DATED** at Toronto this 12<sup>th</sup> day of March, 2009.

*“Lawrence E. Ritchie”*

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Lawrence E. Ritchie

*“Mary G. Condon”*

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Mary G. Condon