Ontario Securities Commission | Commission des valeurs mobilières de l'Ontario | P.O. Box 55, 19th Floor 20 Queen Street West Toronto ON M5H 3S8 | CP 55, 19e étage 20, rue queen ouest Toronto ON M5H 3S8

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

- AND -

IN THE MATTER OF
MAITLAND CAPITAL LTD., ALLEN GROSSMAN,
HANOCH ULFAN, LEONARD WADDINGHAM,
RON GARNER, GORD VALDE, MARIANNE HYACINTHE,
DIANNA CASSIDY, RON CATONE, STEVEN LANYS, ROGER MCKENZIE,
TOM MEZINSKI, WILLIAM ROUSE and JASON SNOW

REASONS AND DECISION
relating to MAITLAND CAPITAL LTD., ALLEN GROSSMAN and HANOCH ULFAN
(Subsections 127(1) and 127(10) of the *Securities Act*)

Hearing:	Written hearing by submissions completed September 1, 2011	
Decision:	February 8, 2012	
Panel:	Mary G. Condon	- Vice-Chair
Appearances:	Derek Ferris	- For Staff of the Ontario Securities Commission
		- None of the respondents participated in person or in writing.

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REASONS AND DECISION
relating to MAITLAND CAPITAL LTD., ALLEN GROSSMAN and HANOCH ULFAN

I. INTRODUCTION

[1] This matter arose out of a Notice of Hearing issued by the Ontario Securities Commission (the "Commission") on January 24, 2006 and a Statement of Allegations issued by Staff of the Commission ("Staff") on the same day (the "Commission Proceeding"). The Commission Proceeding relates to the following respondents: Maitland Capital Ltd. ("Maitland"), Allen Grossman ("Grossman"), Hanoch Ulfan ("Ulfan"), Leonard Waddingham ("Waddingham"), Ron Garner ("Garner"), Gord Valde ("Valde"), Marianne Hyacinthe ("Hyacinthe"), Dianna Cassidy ("Cassidy"), Ron Catone ("Catone"), Steven Lanys ("Lanys"), Roger McKenzie ("McKenzie"), Tom Mezinski ("Mezinski"), William Rouse ("Rouse") and Jason Snow ("Snow").

[2] Subsequently, an Amended Notice of Hearing and Amended Statement of Allegations were issued on May 27, 2011.

[3] On June 28, 2011, the Commission ordered that the hearing to determine the final order, if any, to be made against Grossman, Maitland and Ulfan (the "Maitland Respondents") should proceed in writing and that Staff's written submissions should be served and filed on or before July 29, 2011 and that any written submissions by Grossman, Maitland and Ulfan should be served and filed by September 1, 2011.

[4] A written hearing was held with respect to the Maitland Respondents to consider whether to make a reciprocal order pursuant to subsection 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") based on convictions by the Ontario Court of Justice and decisions and orders of the Alberta Securities Commission ("ASC") and the Saskatchewan Financial Services Commission ("SFSC").

[5] Staff seeks an order in the public interest which includes permanent trading bans, director and officer bans, registration bans, telephone solicitation bans and an order that Grossman, Maitland and Ulfan jointly disgorge $5.5 million raised by Maitland's activities. As an alternative disgorgement order, Staff seeks orders that Grossman and Ulfan disgorge amounts received by them from Maitland in the amounts of $1,579,485.81 (for Grossman) and $1,553,513.00 (for Ulfan) or an order that Grossman and Ulfan jointly disgorge $3,132,998.81 as the total amounts paid to them from Maitland.

[6] Staff filed written submissions dated July 27, 2011, an affidavit of Jody Sikora sworn June 16, 2011, an affidavit of Jasmine Handanovic sworn June 16, 2011, a brief of authorities, a brief of orders and decisions relating to the Maitland Respondents and excerpts of the Ontario Court of Justice sentencing proceeding against the Maitland Respondents. The Maitland Respondents did not file any materials or participate in the written hearing although all of the Maitland Respondents were served with the original Notice of Hearing dated January 24, 2006, Grossman and Maitland were served with the Amended Notice of Hearing dated May 27, 2011, attempted service of the Amended

Notice of Hearing dated May 27, 2011 on Ulfan was unsuccessful, and the Maitland Respondents were given an opportunity to respond to Staff's submissions.

[7] These are the Reasons and Decision as to whether a subsection 127(10) order should be made against the Maitland Respondents.

II. THE RESPONDENTS

[8] Maitland is an Ontario corporation incorporated on November 2, 2004. Grossman is the president and director of Maitland and Ulfan was the secretary-treasurer of Maitland before his resignation on January 25, 2005.

[9] None of the Maitland Respondents is currently registered under the Act. In *R. v. Maitland Capital Limited et al.* (2011), 105 O.R. (3d) 503 ("*R. v. Maitland*") at paragraph 12, the Ontario Court of Justice found that neither Maitland nor Grossman had ever been registered with the Commission in any capacity and that Ulfan was registered as a salesperson, subject to restrictions, from August 1997 until April 1998.

[10] The remaining named individual respondents were employed by or acted as agents for Maitland and acted as salespersons for Maitland shares.

III. COURT AND REGULATORY DECISIONS RENDERED AGAINST THE MAITLAND RESPONDENTS

[11] The Maitland Respondents engaged in conduct that affected investors in a number of different jurisdictions. This conduct has led to criminal convictions in the Ontario Court of Justice and regulatory decisions and/or orders in other provinces. The following is a summary of the court and regulatory decisions rendered against the Maitland Respondents.

1. The Ontario Provincial Court

[12] The Maitland Respondents were the subject of an OSC Staff prosecution before the Ontario Provincial Court. It was alleged that the Maitland Respondents operated a boiler room, selling large volumes of shares through high pressure telephone sales tactics. Further, it was alleged that this was accomplished through misrepresenting material facts, failing to disclose material facts and selling to investors who were not qualified under securities law to buy the shares (*R. v. Maitland*, *supra* at para. 2). Specifically, the charges laid were as follows:

> **Count 1** – The offence of trading in securities of Maitland without registration contrary to subsection 25(1) and subsection 122(1)(c) of the *Securities Act*;
>
> **Count 2** – The offence of authorizing, permitting or acquiescing in trades in securities of Maitland without Maitland and its salespersons being registered to trade in such securities contrary to subsection 25(1) and subsection 122(3) of the *Securities Act*;

Count 3 – The offence of trading in securities of Maitland without a prospectus contrary to subsection 53(1) and subsection 122(1)(c) of the *Securities Act*;

Count 4 – The offence of authorizing, permitting or acquiescing in trades in securities of Maitland where such trading was a distribution of such securities without a prospectus contrary to subsection 53(1) and subsection 122(3) of the *Securities Act*;

Count 5 – The offence of giving prohibited undertakings as to the future value or price of the securities of Maitland with the intention of effecting trades contrary to subsection 38(2) and subsection 122(1)(c) of the *Securities Act*;

Count 6 – The offence of authorizing, permitting or acquiescing in the giving of undertakings as to the future value or price of the securities of Maitland with the intention of effecting trades contrary to subsection 38(2) and subsection 122(3) of the *Securities Act*;

Count 7 – The offence of making prohibited representations regarding future listing of the securities of Maitland on a stock exchange contrary to subsection 38(3) and subsection 122(1)(c) of the *Securities Act*;

Count 8 – The offence of authorizing, permitting or acquiescing in the making of prohibited representation regarding future listing of the securities of Maitland on a stock exchange with the intention of effecting trades contrary to subsection 38(3) and subsection 122(3) of the *Securities Act*;

Count 9 – The offence of making a misleading or untrue statement contrary to subsection 122(1)(b) of the *Securities Act*; and

Count 10 – The offence of authorizing, permitting or acquiescing in the making of a misleading or untrue statement contrary to subsection 122(1)(b) and subsection 122(3) of the *Securities Act*;

(*R. v. Maitland*, *supra* at para. 3)

[13] With respect to the specific charges against each of the Maitland Respondents, Justice Sparrow of the Ontario Court of Justice noted that:

> The prosecutor has explained that in the counts in which Grossman and Ulfan are named alongside the company – counts 1, 3, 5, and 7 – it is alleged that they personally conducted trades and made misrepresentations contrary to the Act. The company is charged in each count as all trades, whether made by Grossman, Ulfan or other salespeople, are alleged to also have been made by the company. In the companion counts 2, 4, 6, and 8,

> it is alleged that Grossman and Ulfan authorized, permitted or acquiesced in trades or misrepresentations made illegally by salespeople working for the company. In counts 9 and 10 Grossman and Ulfan are charged with making and authorizing or permitting a false statement in a report filed with the Commission.
>
> (*R. v. Maitland, supra* at para. 4)

[14] On March 23, 2011, Justice Sparrow convicted the Maitland Respondents of several breaches of Ontario securities law. The specific findings of the Ontario Court of Justice with respect to each count are as follows:

> **Counts 1 and 3** – Each of the Maitland Respondents was convicted of the offences of: (i) trading in securities of Maitland without registration contrary to subsections 25(1) and 122(1)(c) of the Act; and (ii) trading in securities of Maitland without a prospectus contrary to subsections 53(1) and 122(1)(c) of the Act (*R. v. Maitland, supra* at para. 112). The Court found that Grossman and Ulfan both clearly traded in Maitland securities without being registered and without a prospectus having been issued (*R. v. Maitland, supra* at para. 94). The Court also found that the Maitland Respondents did not demonstrate that their trades fell within the accredited investor exemption and they did not demonstrate that they were duly diligent, or took reasonable care in determining that their trades fell within the exemption (*R. v. Maitland, supra* at paras. 103, 108, 109, 110 and 111).
>
> **Counts 2 and 4** – Both Grossman and Ulfan were convicted of the offences of authorizing, permitting or acquiescing in: (i) trades in securities of Maitland without Maitland and its salespersons being registered to trade in such securities contrary to subsections 25(1) and 122(3) of the Act; and (ii) trades in securities of Maitland where such trading was a distribution of such securities without a prospectus contrary to subsections 53(1) and 122(3) of the Act (*R. v. Maitland, supra* at para. 112). Specifically, the Court found that:
>
> 1) both were involved in the hiring of sales people;
>
> 2) both passed out contact information to the salespeople;
>
> 3) salespeople reported to both of them;
>
> 4) Cassidy testified that both were involved in the day to day operation of the business;
>
> 5) both signed treasury directives to have shares issued;
>
> 6) both names appeared on share certificates; and
>
> 7) both put the investors' cheques in the bank and had signing authority.

(*R. v. Maitland, supra* at para. 98)

Counts 5, 6, 7 and 8 – The court found that Grossman and Ulfan "made undertakings about future value and stock market listings" and that Maitland salespersons also "made representations about value and future listings" (*R. v. Maitland, supra* at paras. 116 and 117). Further, it was found that Grossman and Ulfan authorized, permitted or acquiesced in Maitland's conduct because:

1) They made the prohibited references themselves;

2) Ulfan was heard telling salespeople to make these references;

3) They were both involved in day to day operations and salespeople referred to both of them as being in charge;

4) The Prince script, and all Maitland marketing manuals…strongly suggest that share prices increases and listings were possible, including reference to "pre-IPO opportunity" in the script and in a letter signed by Grossman and untruthful references to previous Maitland IPO successes in the script; and

5) They provided no manuals, directives or training to ensure that misrepresentation did not occur.

(*R. v. Maitland, supra* at para. 119)

As a result of the conduct described above, Grossman and Ulfan were convicted of the offences of:

(i) giving prohibited undertakings as to the future value or price of Maitland securities with the intention of effecting trades contrary to subsections 38(2) and 122(1)(c) of the Act.

(ii) authorizing, permitting or acquiescing in giving undertakings as to the future value or price of Maitland securities with the intention of effecting trades contrary to subsections 38(2) and 122(3) of the Act.

(iii) making prohibited representations regarding the future listing of Maitland securities on a stock exchange contrary to subsections 38(3) and 122(1)(c) of the Act.

(iv) authorizing, permitting or acquiescing in making prohibited representations regarding the future listing of Maitland securities on a stock exchange with the intention of effecting trades contrary to subsections 38(3) and 122(3) of the Act.

In addition, Maitland was convicted as charged, "given that it is responsible for the acts of its directing minds" (*R. v. Maitland, supra* at para. 124).

Count 9 – Grossman and Maitland were convicted of the offence of making a misleading or untrue statement contrary to subsection 122(1)(b) of the Act. The Court found that the exempt distribution report filed by Maitland and signed by Grossman contained a material misrepresentation. The report was on an incorrect form, it was not complete and the trades were not exempt as the investors were not accredited investors (*R. v. Maitland, supra* at paras. 125 to 127).

Count 10 – Ulfan was convicted of the offence of authorizing, permitting or acquiescing in making a misleading or untrue statement contrary to subsections 122(1)(b) and 122(3) of the Act. This charge against Grossman was dismissed as the Court found count 10 duplicative of count 9 (*R. v. Maitland, supra* at paras. 128 and 129).

[15] In a sentencing decision of the Ontario Court of Justice dated May 4, 2011, Grossman and Ulfan were each sentenced to 21 months in jail and Maitland was fined $1,000,000. The reasoning of the Court for imposing the sentence was as follows:

> [Regarding Mr. Grossman] … concurrent sentences should be imposed on counts one to four, given that they all relate to breaches of the prospectus and registration requirements by Mr. Grossman personally in his director and officer roles. [Mr. Grossman] will be sentenced to ten months concurrently on each of those counts.
>
> On counts five to eight, all which involve misrepresentations as to value and further listing, [Mr. Grossman] will be sentenced to ten months concurrent on each count, but consecutive to the sentence on the first four counts.
>
> With regard to count nine, [Mr. Grossman] will be sentenced to one month consecutive to all other counts. It is serious to file a misleading report re exempt distributions, but I take the principle of totality into account.
>
> The same sentence will be imposed on Mr. Ulfan, although I note that the one month will be imposed on count ten, not count nine.
>
> The total jail sentence is therefore 21 months. The company will be fined $1 million dollars. It is clear that it cannot be paid but it is imposed to symbolize the severity of the offences.
>
> There will be no fine imposed on Mr. Grossman given that it is not being sought by the Securities Commission and that he has many other outstanding fines.
>
> A two year probation order will be made. The terms will be that he report to probation immediately and thereafter as required and that he refrain from … trading in securities during that time period.

(*R. v. Maitland,* Sentencing (Excerpt of Proceedings) Transcript, May 4, 2011, at pp. 14 and 15)

2. The Alberta Securities Commission

[16] The ASC proceeding involved distributions of Maitland securities to investors resident in Alberta. It was alleged that Maitland, Grossman, Rouse, Garner, Cassidy and Robert Gellar ("Gellar") traded in securities of Maitland without being registered to do so, without having filed a prospectus and received a receipt and without any applicable exemptions, thereby engaging in illegal trading and illegal distributions of Maitland securities in Alberta. Further, there were also allegations that prohibited representations and misrepresentations were made to investors, unfair practices were engaged in, misleading and untrue statements were made, there was a failure to file reports of exempt distributions and that attempts were made to conceal or withhold information reasonably required for ASC staff's investigation by making false statements to an ASC investigator. Ulfan was not named as a respondent in the ASC proceeding.

[17] On June 7, 2007, Maitland, Grossman and the other respondents named in the ASC proceeding were found to have breached various provisions of the Alberta *Securities Act*, R.S.A. 2000, c. S.4 ("ASA"), as amended. The findings of the Panel with respect to Maitland and Grossman were as follows:

> By illegally trading and distributing Maitland Capital securities, Maitland Capital, Grossman and the Respondent Salespersons [Rouse, Gardner, Cassidy and Geller] contravened sections 75(1)(a) and 110(1) of the [ASA].
>
> By failing to file reports of exempt distribution as required, Maitland Capital and Grossman acted contrary to section 7.1(1) of MI 45-103 or section 6.1 of NI 45-106, as the case may be.
>
> …
>
> By making statements that he knew or ought reasonably to have known were misrepresentations, Grossman breached section 92(3)(c) of the [ASA].
>
> …
>
> By permitting or encouraging a Maitland Capital salesperson to engage in an unfair practice, Grossman was responsible for that salesperson's breach of section 92(3)(d) of the [ASA].
>
> By making false statements to [an ASC] investigator when he knew or ought reasonably to have known that an investigation was being conducted by the [ASC], Grossman breached section 93.4(1) of the [ASA].

> In respect of the contraventions that have been proved and other misconduct, Maitland Capital's, Grossman and the Respondent Salespersons' conduct was contrary to the public interest.
>
> (*Re Maitland Capital Ltd.*, 2007 ABASC 357 (ASC) (the "*ASC Merits*") at paras. 201 to 208)

[18] The ASC Merits Panel also found that Grossman orchestrated the Maitland investment scheme and was the controlling mind of Maitland. Specifically, the ASC Merits Panel found that:

> The evidence established that Grossman has been the controlling mind of Maitland Capital since its incorporation. As Maitland Capital's president, Grossman negotiated and concluded the Share Subscription Agreement with Maitland Energy, instituted the Maitland Capital sales program, hired the Maitland Capital salespersons, implemented the selling activities undertaken by the Maitland Capital salespersons, solicited prospective investors himself, established the Website, provided Maitland Energy and other information to prospective investors and signed the share certificates issued to investors. In other words, Grossman bears significant responsibility for the sale of Maitland Capital common shares to Alberta residents.
>
> (*ASC Merits*, *supra* at para. 137)

[19] The ASC issued its sanctions and costs decision on November 6, 2007. Maitland was ordered to cease trading in or purchasing securities. It was also ordered that all exemptions contained in Alberta securities laws do not apply to Maitland until a prospectus is filed with the ASC and a receipt issued therefor (*Re Maitland Capital Ltd.*, 2007 ABASC 818 (ASC) ("*ASC Sanctions*") at para. 41). The following order was made against Grossman:

> (a) under sections 198(1)(b) and (c) of the Act, that he must cease trading in or purchasing securities or exchange contracts and that all of the exemptions contained in Alberta securities law do not apply to him, in each case for 20 years;
>
> (b) under sections 198(1)(d) and (e) of the Act, that he must resign any position that he holds as a director or officer of any issuer and that for 20 years he is prohibited from becoming or acting as a director or officer (or both) of any issuer; and
>
> (c) under section 199 of the Act, that he must pay an administrative penalty in the amount of $250,000.
>
> (*ASC Sanctions*, *supra* at para. 42)

[20] With respect to the costs of the ASC's investigation and hearing, Maitland was ordered to pay $15,000 in costs and Grossman was ordered to pay $40,000 in costs (*ASC Sanctions*, *supra* at para. 50).

[21] Grossman and Maitland appealed the *ASC Merits* and *ASC Sanctions* decisions. The Alberta Court of Appeal dismissed the appeals (*Maitland Capital Ltd. v. Alberta (Securities Commission)*, 2009 ABCA 186 (Alta. C.A.) at paras. 14 and 21).

3. The Saskatchewan Financial Services Commission

[22] On July 22, 2005, the SFSC issued a temporary cease trade order against Maitland, Grossman and Lanys (the "SFSC Order") on the basis that it appeared that: (1) these respondents traded in securities of Maitland in Saskatchewan; (2) they were not registered; (3) a receipt for a prospectus had not been issued with respect to these securities; (4) there were no exemptions available to the respondents; and (5) the respondents improperly used the accredited investor exemption. It was ordered that trading in all securities by and of these respondents cease forthwith and that exemptions were not available to these respondents. Ulfan was not listed as a respondent in the SFSC Order.

[23] On August 8, 2005, the SFSC extended the SFSC Order and it remains in effect. Maitland, Grossman and Lanys are all subject to the SFSC Order dated July 22, 2005.

4. The New Brunswick Securities Commission

[24] On March 31, 2006, the New Brunswick Securities Commission ("NBSC") issued a temporary cease trade order against the Maitland Respondents and others (the "NBSC Order"). It was ordered that all trading in the securities of Maitland by Maitland, its officers, directors, employees and/or agents shall cease. In addition, the Maitland Respondents and others were ordered to cease trading in all securities and it was ordered that exemptions in New Brunswick securities law were not available to the Maitland Respondents and others.

[25] On May 24, 2006, the NBSC Order was made permanent against Ulfan, and extended against Grossman and Maitland. Subsequently, on October 11, 2006, the NBSC Order was extended against Grossman and Maitland until the completion of the NBSC hearing.

5. The British Columbia Securities Commission

[26] On July 15, 2008, the British Columbia Securities Commission ("BCSC") issued a reciprocal order against Grossman and others for conduct relating to Maitland, based on the ASC decision.

[27] Specifically, with respect to Grossman, it was ordered that until November 6, 2027, Grossman: (1) must cease trading in, and is prohibited from purchasing securities and exchange contracts; (2) is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager and must resign from any such position

he may hold; (3) is prohibited from becoming or acting as a registrant, investment fund manager or promoter; (4) is prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and (5) is prohibited from engaging in investor relations activities.

IV. STAFF'S REQUESTED ORDER

[28] Staff requests at paragraphs 10, 48, 52 and 59 of its written submissions that the Commission make the following order pursuant to subsections 127(1) and (10) of the Act:

a) pursuant to clause 2 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan permanently cease trading in securities;

b) pursuant to clause 2.1 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan permanently cease acquiring securities;

c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Grossman, Maitland and Ulfan permanently;

d) pursuant to clause 6 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan are reprimanded;

e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act, Grossman and Ulfan shall resign all positions that they hold as a director or officer of any of an issuer, registrant or investment fund manager;

f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Grossman and Ulfan are prohibited permanently from becoming or acting as a director or officer of any of an issuer, registrant, or an investment fund manager;

g) pursuant to clause 8.5 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan are prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

h) pursuant to clause 10 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan shall jointly disgorge $5,500,000 to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act; and

i) pursuant to subsection 37(1) of the Act, Grossman, Maitland and Ulfan are prohibited permanently from telephoning residences within or outside of Ontario for the purpose of trading in securities.

[29] In the alternative to the disgorgement order listed at paragraph 28(h), Staff requests an order that Grossman and Ulfan disgorge amounts received by them from Maitland in the amounts of $1,579,485.81 for Grossman and $1,553,513 for Ulfan or that Grossman and Ulfan jointly disgorge $3,132,998.81 to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

[30] Staff takes the position at paragraph 65 of its written submissions that the sanctions requested are in the public interest and appropriate in the circumstance of this case because the proposed sanctions:

a) are consistent with sanctions in other cases involving criminal or quasi-criminal convictions;

b) reflect an appropriate outcome for Grossman, Maitland and Ulfan given the past harm caused to investors, the individual circumstances of Maitland, Grossman and Ulfan and the threat that Maitland, Grossman and Ulfan pose to the capital markets;

c) are appropriate given that Grossman is already subject to a 20-year trading ban imposed in *Re First Global Ventures S.A.* (2008), 31 O.S.C.B. 10869 ("*First Global Sanctions*");

d) are appropriate given that Grossman and Ulfan have been sentenced to 21 months in jail for their conduct;

e) are appropriate given the findings against Grossman and Maitland in the ASC decisions;

f) will contribute to the fair and efficient operation of the capital markets and to the responsible co-ordination of securities regulation regimes;

g) will serve as a deterrent to similar conduct by Grossman, Maitland and Ulfan and/or by like-minded individuals.

V. THE ISSUES

[31] The issues to be addressed in this matter are the following:

1. Have the pre-conditions for an order under subsection 127(10) of the Act been satisfied?

2. Is subsection 127(10) being applied retrospectively?

3. What sanctions, if any, against Grossman, Maitland and Ulfan are appropriate to protect the public interest?

VI. ANALYSIS

1. Have the pre-conditions for an order under subsection 127(10) of the Act been satisfied?

[32] Subsection 127(10) of the Act states:

> (10) Without limiting the generality of subsections (1) and (5), an order may be made under subsection (1) or (5) in respect of a person or company if any of the following circumstances exist:
>
> 1. The person or company has been convicted in any jurisdiction of an offence arising from a transaction, business or course of conduct related to securities or derivatives.
>
> 2. The person or company has been convicted in any jurisdiction of an offence under a law respecting the buying or selling of securities or derivatives.
>
> 3. The person or company has been found by a court in any jurisdiction to have contravened the laws of the jurisdiction respecting the buying or selling of securities or derivatives.
>
> 4. The person or company is subject to 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 on the person or company.
>
> …

[33] As set out in *Re Euston Capital Corp.* (2009), 32 O.S.C.B. 6313 ("*Euston*") at paragraph 46, subsection 127(10) of the Act allows the Commission to:

> …make an order against the Respondents pursuant to our public interest jurisdiction under section 127 of the Act on the basis of decisions and orders made in other jurisdictions, if we find it necessary in order to protect investors in Ontario and the integrity of Ontario's capital markets.

[34] Staff relies on the inter-jurisdictional enforcement provisions in subsection 127(10) of the Act on the basis that:

a) Grossman, Maitland and Ulfan have been convicted in Ontario of offences arising from the illegal operation of a boiler room in Ontario which sold Maitland shares using high-pressured sales tactics to investors across Canada and in other countries;

b) Grossman and Maitland have been sanctioned by the ASC in respect of the same illegal distribution of Maitland shares and for misleading both investors and ASC investigators; and

c) Grossman and Maitland are subject to an ongoing cease trading order of the SFSC.

(Staff's Written Submissions at para. 3)

[35] While Staff did include the NBSC Order and BCSC reciprocal order in their materials, they did not purport to rely on them in their subsection 127(10) request.

[36] In my view, the decision of the Ontario Court of Justice meets the threshold criterion set out in subsection 127(10)3 of the Act. As set out above, the Ontario Court of Justice found Grossman, Maitland and Ulfan guilty of breaches of subsections 25(1), 38(2), 38(3), 53(1), 122(1)(b) and 122(3) of the Act. These breaches were founded on a course of conduct related to securities within the meaning of subsection 127(10)1 of the Act and related to the buying or selling of securities within the meaning of subsection 127(10)2 of the Act.

[37] Furthermore, the *ASC Merits* and *ASC Sanctions* decisions meet the threshold criterion set out in subsection 127(10)4 of the Act with respect to Grossman and Maitland. The ASC found that Grossman and Maitland breached Alberta securities law and made an order imposing sanctions on Grossman and Maitland, as described above.

[38] Accordingly, the Commission may make an order against the Maitland Respondents under subsections 127(1) and (10) of the Act relying on the decisions of the Ontario Court of Justice and the ASC.

[39] With respect to the SFSC Order, I note that this order is not permanent in nature and a merits hearing has not yet taken place. I did not receive written submissions on the issue of whether the Commission may make a permanent order under subsections 127(1) and (10) of the Act based on a temporary order without findings on the merits. In this case it is unnecessary to address this issue as the Commission can rely on the final decisions of the Ontario Court of Justice (trial and sentencing decisions) and the ASC (merits and sanctions decisions) to make an order against the Maitland Respondents under subsections 127(1) and (10) of the Act.

2. Is subsection 127(10) being applied retrospectively?

[40] The Commission has previously established that it is entitled to make a public interest order under subsection 127(1) of the Act in the circumstances contemplated by subsection 127(10) of the Act notwithstanding the fact that the underlying conduct occurred prior to the coming into force of subsection 127(10) on November 27, 2008. In *Euston*, the Commission concluded that the presumption against retrospectivity does not apply to public interest orders made by the Commission in the circumstances contemplated by subsection 127(10) and that subsection 127(10) may operate retrospectively. Specifically, it was explained in *Euston* at paragraphs 56 and 57:

> Based on a plain reading of subsection 127(10) in the context of section 127 as a whole, and after taking into account the Supreme Court of Canada's decisions in *Brosseau* and *Asbestos*, we conclude that the purpose…of subsection 127(10) is to protect the public. Hence, the presumption against retrospectivity is not applicable, and subsection 127(10) may operate retrospectively.
>
> While the courts in *Brost* and *Thow* had to consider the retrospective application of a provision which expanded the sanctioning powers of a securities regulator, subsection 127(10) of the Act does no such thing. Rather, subsection 127(10) of the Act simply allows the Commission to consider any convictions or orders made against an individual in other jurisdictions, when deciding whether or not to make an order under subsection 127(1) or (5) in the public interest.

[41] *Euston* has subsequently been followed by the Commission in other decisions (see for example: *Re Elliot* (2009), 32 O.S.C.B. 6931 at paras. 16 to 26, *Re Lech* (2010), 33 O.S.C.B. 4795 ("*Lech*") at paras. 24 to 32, and *Re Landen* (2010), 33 O.S.C.B. 9489 at paras. 24 to 29).

[42] Therefore, although the conduct in this matter took place in 2004, the Commission has the ability to make an order pursuant to subsections 127(1) and (10) of the Act.

3. What sanctions, if any, against Grossman, Maitland and Ulfan are appropriate to protect the public interest?

a. The Law on Sanctions

[43] Pursuant to section 1.1 of the Act, the Commission has the mandate to: (i) provide protection to investors from unfair, improper or fraudulent practices; and (ii) foster fair and efficient capital markets and confidence in capital markets. As stated by the Supreme Court of Canada in *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("*Asbestos*") at paragraph 42, the Commission's public interest mandate is neither remedial nor punitive; instead, it is protective and preventive, and it is intended to prevent future harm to Ontario's capital markets. Specifically:

> … the above interpretation is consistent with the scheme of enforcement in the Act. The enforcement techniques in the Act span a broad spectrum from purely regulatory or administrative sanctions to serious criminal penalties. The administrative sanctions are the most frequently used sanctions and are grouped together in s. 127 as "Orders in the public interest". Such orders are not punitive: *Re Albino* (1991), 14 O.S.C.B. 365. Rather, the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets: *Re Mithras*

> *Management Ltd.* (1990), 13 O.S.C.B. 1600. In contradistinction, it is for the courts to punish or remedy past conduct under ss. 122 and 128 of the Act respectively: see D. Johnston and K. Doyle Rockwell, *Canadian Securities Regulation* (2nd ed. 1998), at pp. 209-11.
>
> …
>
> … pursuant to s. 127(1), the OSC has the jurisdiction and a broad discretion to intervene in Ontario capital markets if it is in the public interest to do so. … In exercising its discretion, the OSC should consider the protection of investors and the efficiency of, and public confidence in, capital markets generally. In addition, s. 127(1) is a regulatory provision. The sanctions under the section are preventive in nature and prospective in orientation.
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> (*Asbestos, supra* at paras. 43 and 45 [emphasis added])

[44] In determining the appropriate sanctions to order in this matter, the Commission's preventive and protective mandate set out in section 1.1 of the Act must be considered along with the specific circumstances in this case to ensure that the sanctions are proportionate (*Re M.C.J.C. Holdings* (2002), 25 O.S.C.B. 1133 at 1134).

[45] The case law sets out the following list of non-exhaustive factors that are important to consider when imposing sanctions:

(a) the seriousness of the allegations;

(b) the respondent's experience in the marketplace;

(c) the level of a respondent's activity in the marketplace;

(d) whether or not there has been a recognition of the seriousness of the improprieties;

(e) the need to deter a respondent, and other like-minded individuals, from engaging in similar abuses of the capital markets in the future;

(f) whether the violations are isolated or recurrent;

(g) the size of any profit gained or loss avoided from the illegal conduct;

(h) any mitigating factors, including the remorse of the respondent;

(i) the effect any sanction might have on the livelihood of the respondent;

(j) the effect any sanction might have on the ability of a respondent to participate without check in the capital markets;

(k) in light of the reputation and prestige of the respondent, whether a particular sanction will have an impact on the respondent and be effective;

(l) the size of any financial sanctions or voluntary payment when considering other factors.

(See, for example, *Re M.C.J.C. Holdings*, (2002), 25 O.S.C.B. 1133 at 1136 and *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746)

[46] The applicability and importance of each factor will vary according to the facts and circumstances of the case.

[47] Deterrence is another factor that the Commission could consider when determining appropriate sanctions. In *Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 ("*Cartaway*") at paragraph 60, the Supreme Court of Canada explained that deterrence is "…an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative". Further, the Supreme Court emphasized that deterrence may be specific to the respondent or may be general to deter the public at large:

> Deterrent penalties work on two levels. They may target society generally, including potential wrongdoers, in an effort to demonstrate the negative consequences of wrongdoing. They may also target the individual wrongdoer in an attempt to show the unprofitability of repeated wrongdoing. The first is general deterrence; the second is specific or individual deterrence: see C. C. Ruby, *Sentencing* (5th ed. 1999). In both cases deterrence is prospective in orientation and aims at preventing future conduct.
>
> (*Cartaway*, *supra* at para. 52)

[48] As stated above, the sanctions imposed must be protective and preventive. The role of the Commission is to impose sanctions that will protect investors and the capital markets from exposure to similar conduct in the future. As articulated by the Commission in *Re Mithras Management Inc.* (1990), 13 O.S.C.B. 1600 ("*Mithras*"):

> …the role of this Commission is to protect the public interest by removing from the capital markets -- wholly or partially, permanently or temporarily, as the circumstances may warrant -- those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
>
> (*Mithras*, *supra* at 1610 and 1611)

b. Specific Sanctioning Factors Applicable in this Matter

[49] Overall, the sanctions imposed in this matter must protect investors and Ontario capital markets by barring or restricting the Maitland Respondents from participating in those markets in the future.

[50] In considering the sanctioning factors set out in the case law, and applying these factors to the facts as found in the Ontario Court of Justice and the ASC decisions, the following specific factors and circumstances are relevant in this matter:

(a) The seriousness of the allegations – The proceeding before the Ontario Court of Justice involved charges against the Maitland Respondents on 10 different counts relating to the selling of Maitland shares. As set out above at paragraph 14, the Court found that the Maitland Respondents breached subsections 25(1), 38(2), 38(3), 53(1), 122(1)(b) and 122(3) of the Act. As a result of these serious findings, the Court sentenced Grossman and Ulfan to 21 months in jail and Maitland was fined $1,000,000. The proceeding before the ASC also involved serious misconduct involving a distribution of Maitland securities to Alberta-resident investors. As set out at paragraph 17 above, the ASC found that Grossman and Maitland breached numerous provisions of the ASA and ordered that for a period of 20 years: (1) Grossman cease trading, (2) exemptions do not apply; and (3) he cannot act as a director or officer of any issuer. In addition, he was ordered to pay an administrative penalty of $250,000 and costs of $40,000. The ASC also ordered that Maitland cease trading in securities and that exemptions do not apply to it until it files a prospectus with the ASC. Maitland was ordered to pay $15,000 in costs.

(b) The respondents' experience in the marketplace – Ulfan was previously registered with the Commission from August 1997 to April 1998. Grossman and Maitland were never registered with the Commission (*R. v. Maitland, supra* at para. 12).

(c) The level of the respondents' activity in the marketplace – The Ontario Court of Justice found that Maitland raised approximately $5.5 million (*R. v. Maitland, supra* at para. 10). The conduct of the Maitland Respondents was not limited to raising funds from Ontario investors. The Ontario Court of Justice found that 275,520 long distance phone calls were made to solicit investors throughout Canada and in seven other countries (*R. v. Maitland, supra* at para. 9). These facts were not contested before the Ontario Court of Justice.

(d) Whether or not there has been a recognition of the seriousness of the improprieties – The Maitland Respondents did not take responsibility for their actions or show any remorse before the Ontario Court of Justice or the ASC. Ulfan did not attend the criminal trial before the Ontario Court of Justice. Justice Sparrow also found that Grossman did not show remorse and that during his cross-examination he "demonstrated his

contempt for provincial securities regulators" (*R. v. Maitland,* Sentencing (Excerpt of Proceedings) Transcript, May 4, 2011, at p. 6). Grossman's testimony during the criminal trial also demonstrated that he had no respect for securities law. Specifically, the Court found:

> As noted in the summary of Grossman's testimony, he simply boldly denied commission of these offences. In my view, this testimony is not credible. As found previously, he made and authorized or permitted prohibited trades, and filed a misleading report with the Commission. Marketing documents sent to investors and the website were misleading, representing Maitland Capital as the energy explorer. Misleading representations were made in many documents sent to investors. He clearly has no respect for the prohibitions in the Act, given his strong criticisms of certain provisions. His statement that he did not and perhaps still does not understand the meaning of "accredited investor", a straightforward concept, is not believable. He put $1.5 million of investor monies into his own business. He was in the office daily in earshot of the misrepresentations of salespeople who he did not train, monitor or guide. His flat denials are simply not credible, and contradicted by the bulk of the evidence.
>
> (*R. v. Maitland, supra* at para. 120)

(e) Whether the violations are isolated or recurrent – The selling of Maitland shares was not an isolated event. Maitland shares were sold on an ongoing, widespread basis during 2004 and 2005. The Ontario Court of Justice found that 234 Maitland investors in various provinces invested in Maitland and that 1755 Maitland share certificates were issued (*R. v. Maitland, supra* at para. 8). In addition, Grossman is a recidivist offender of securities law. In *Re First Global Ventures S.A.* (2007), 30 O.S.C.B. 10473 ("*First Global Merits*") at paragraph 185, the Commission found that Grossman used high pressure sales tactics to sell First Global securities and was involved in unregistered trading and illegal distribution of securities in breach of subsections 25(1) and 53(1) of the Act. He also breached a temporary cease trade order issued by the Commission in the Maitland matter.

(f) The size of any profit gained or loss avoided from the illegal conduct – Staff filed an affidavit of Jody Sikora sworn June 16, 2011, which included exhibits showing that (i) Grossman's company, A.E.I. Construction Management ("A.E.I."), received payments from Maitland's TD Canada Trust Account totalling $1,579,485.81; (ii) Ulfan's company, Landrite Limited, received payments from Maitland's TD Canada Trust Account totalling $1,504,339.05, and (iii) Ulfan's son received payments from Maitland's TD Canada Trust Account totalling $49,174.40. This information is consistent with findings made by the Ontario Court of Justice in sentencing Grossman, Maitland and Ulfan on May 4, 2011.

(g) The effect any sanction might have on the livelihood of the respondent – The Ontario Court of Justice sentenced Grossman to 21 months in jail for breaches of Ontario securities law. In addition, in *First Global Sanctions*, *supra* at paragraph 73, the Commission ordered Grossman to cease trading for a period of 20 years. It further ordered that exemptions from Ontario securities law do not apply to Grossman for 20 years, that Grossman may not act as an officer or director of any issuer for 20 years and that he was prohibited from telephoning residences within or outside Ontario for the purpose of trading in securities for 20 years. Despite this order, Grossman has been involved in other Commission matters involving the solicitation, selling and distribution of securities. Staff submits that permanent bans are required to prevent Grossman from participating in the capital markets in order to protect the public.

(h) The size of any financial sanctions or voluntary payment when considering other factors – The ASC imposed on Grossman an administrative penalty of $250,000 and costs of $40,000. The ASC imposed costs on Maitland of $15,000. The Ontario Court of Justice imposed a $1,000,000 fine on Maitland. Staff did not request further administrative penalties given the jail sentences and the fine imposed by the Ontario Court of Justice. In addition, in *First Global Sanctions*, *supra* at paragraph 73, Grossman was ordered to pay an administrative penalty of $200,000 and to pay, jointly and severally with First Global, $50,000 in costs plus $2,573.74 in disbursements.

c. Trading and Other Prohibitions

Trading

[51] Staff takes the position that in the circumstances of this case, it would be appropriate to order that the Maitland Respondents cease trading in securities and be prohibited from acquiring securities and that exemptions contained in Ontario securities law not apply to any of the Maitland Respondents permanently. In particular, Staff referred the Commission to a number of aggravating factors to support their request for a permanent ban.

[52] In my view, the following aggravating factors are relevant:

(a) Maitland raised approximately $5.5 million and only $500,000 was invested in Maitland Energy. Maitland Energy has no value as Maitland investors have lost their entire investments (*R. v. Maitland,* Sentencing (Excerpt of Proceedings) Transcript, May 4, 2011, at p. 5);

(b) Maitland paid $1,579,485.81 to A.E.I. Construction (Grossman) and $1,504,339 to Landrite (Ulfan) and $49,174 to Elan Ulfan (*R. v. Maitland,* Sentencing (Excerpt of Proceedings) Transcript, May 4, 2011, at pp. 5 and 6);

(c) Grossman misled Staff and ASC Staff. Specifically, Justice Sparrow found that Grossman misled Staff's investigator in November 2005 when he advised the investigator that Maitland was only selling shares to accredited investors and it only sold shares to 33 investors (*R. v. Maitland,* Sentencing (Excerpt of Proceedings) Transcript, May 4, 2011, at p. 6). In addition, the ASC also found that Grossman made false statements to an ASC investigator (*ASC Merits*, *supra* at paras. 192 to 195);

(d) Maitland provided misleading documents to investors. As noted at paragraph 50(d) above, the Ontario Court of Justice found that "Misleading representations were made in many documents sent to investors" (*R. v. Maitland, supra* at para. 120). In addition, the ASC found that "Grossman clearly set out to mislead prospective investors as to the entity in which they were purchasing securities" (*ASC Merits*, *supra* at para. 198); and

(e) Maitland's salespersons targeted unsophisticated and unaccredited investors with no attempt to comply with securities laws. Specifically, the Court found that Grossman and Ulfan authorized, permitted or acquiesced in the behaviour of the Maitland salespersons and that they made prohibited representations about the listing of Maitland shares on a stock exchange and the future value of Maitland shares (*R. v. Maitland, supra* at paras. 115 to 119). In addition, the Court found that "Neither Grossman or [*sic*] Ulfan took reasonable steps to ascertain whether the investors they dealt with fell within the definition of accredited investors, or to ensure that the salespeople were taking proper measures" (*R. v. Maitland, supra* at para. 109).

[53] I find that a permanent cease trade order, a permanent prohibition on acquiring securities and a permanent removal of exemptions is appropriate in this case. Based on the findings of the Ontario Court of Justice and the ASC, the Maitland Respondents breached numerous provisions of securities law and their conduct adversely affected investors in multiple provinces.

[54] I agree with Staff's submission that trading carve-outs should not be granted to the Maitland Respondents because they were found guilty of criminal conduct (for examples of subsection 127(10) Commission cases involving criminal conduct where the Commission refused to grant carve-outs see: *Lech*, *supra* and *Re Graham* (2009), 32 O.S.C.B. 7202). Specifically, in *Lech*, the Commission stated at paragraph 66:

> …In the present case, the conduct at issue is criminal fraud related to securities. Lech's conduct was egregious and demonstrates a serious risk to the public. In this case, it is better to err on the side of caution. We therefore find that it is neither appropriate nor in the public interest to provide such a carve-out.

[55] While fraud was not alleged in this matter, the Maitland Respondents did engage in a pattern of misconduct affecting many investors in multiple provinces and the seriousness of their violations indicates an ongoing disregard for the rules governing the sale of securities to investors.

[56] Taking into consideration the findings of the Ontario Court of Justice set out at paragraph 14 and the findings of multiple breaches of securities law by the ASC set out at paragraph 17, it is inappropriate to grant any trading carve-outs to the Maitland Respondents.

Director, Officer and Other Bans

[57] Staff also requests that Grossman and Ulfan resign any positions that they may hold as an officer or director of an issuer, registrant or investment fund manager and that they be prohibited permanently from becoming or acting as a director or officer of any issuer, registrant or investment fund manager. Further, Staff requests that Grossman, Maitland and Ulfan be prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter.

[58] These bans requested by Staff are appropriate and necessary to protect investors from the future involvement of Grossman and Ulfan in the capital markets. In *Mithras*, the Commission explained that the removal of individuals from the capital markets is an effective mechanism for protecting the public. In addition to trading prohibitions, officer, director and other bans are an effective way to remove persons from participating in the capital markets.

[59] Grossman and Ulfan were respectively the president and director of Maitland and the secretary-treasurer of Maitland. As set out at paragraphs 14 and 18 above, the ASC found Grossman to be the directing mind of Maitland, and the Ontario Court of Justice held Maitland liable for the acts of Ulfan and Grossman, Maitland's two directing minds. The permanent bans requested by Staff will ensure that Grossman and Ulfan will not be put in a position of control or trust with any issuer, registrant, investment fund manager or promoter. This is important because the misconduct in this matter was facilitated by Grossman and Ulfan in their capacity as officers of Maitland who had substantial influence and decision-making power over the company.

Section 37 of the Act

[60] At the time the conduct in this matter took place, subsection 37(1) of the Act provided:

> 37. (1) The Commission may by order suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named or described in the order to,
>
> (a) call at any residence; or
>
> (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security or in any class of securities.

[61] The current version of subsection 37(1) of the Act is substantially identical except that it also refers to derivatives, in addition to securities.

[62] Staff has requested pursuant to subsection 37(1)(b) of the Act that the Maitland Respondents be prohibited permanently from telephoning any residence within or outside Ontario for the purpose of trading in any security or in any class of securities.

[63] Since the conduct found to have occurred by the Ontario Court of Justice involved a systematic process of solicitation and sale of Maitland securities by telephone, it is appropriate to make an order under subsection 37(1)(b) of the Act to prevent permanently the Maitland Respondents from telephoning from within Ontario to any residence within or outside Ontario to solicit trades.

d. Disgorgement

[64] Staff requests that a disgorgement order be made in this matter. Staff takes the position that Grossman and Ulfan have both been found guilty by the Ontario Court of Justice of the illegal distribution of Maitland shares and making prohibited representations both personally and in their roles as officers and directors of Maitland. As a result, Grossman and Ulfan are both responsible for the entire illegal distribution of Maitland shares. According to Staff, based on this conduct, Grossman and Ulfan ought to jointly disgorge with Maitland the entire amount of $5.5 million obtained in breach of the Act. Staff relies on *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 to support its disgorgement request and submits that its disgorgement request is consistent with the disgorgement order made in that case.

[65] Further, Staff submits that a disgorgement order is appropriate given the findings of the Ontario Court of Justice and the ASC, the need to adequately protect Ontario's capital markets and the fact that no other disgorgement or restitution orders have been issued against Grossman, Maitland or Ulfan in this matter.

[66] In the first place, Staff has brought this matter before the Commission as a request for a reciprocal order under subsection 127(10) of the Act. As disgorgement orders were not made by the Ontario Court of Justice or the other securities commissions, it is inappropriate, in my view, to make a reciprocal disgorgement order in this case.

[67] In support of their request for a disgorgement order, Staff filed an affidavit of Jody Sikora sworn June 16, 2011. This affidavit indicates that investors wired funds into Maitland's TD Canada Trust account; however, no supporting documents were included as exhibits to the affidavit to actually show Ontario investor deposits into the Maitland TD Canada Trust Account. There were also no documents to support the total amount of Ontario funds deposited and the total number of Ontario investors. In the absence of documentary evidence showing Ontario investor funds deposited into Maitland's TD Canada Trust Account and the number of Ontario investors, it is inappropriate to make a disgorgement order in Ontario.

VII. CONCLUSION

[68] I consider that it is important in this case to protect Ontario capital markets by imposing sanctions that not only deter the Respondents but also like-minded people from engaging in future conduct that violates securities law.

[69] I will issue a separate order giving effect to my decision pursuant to subsections 127(1) and (10) of the Act and I order that:

a) pursuant to clause 2 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan shall permanently cease trading in any securities;

b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Grossman, Maitland or Ulfan is permanently prohibited;

c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Grossman, Maitland or Ulfan permanently;

d) pursuant to clause 6 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan are reprimanded;

e) pursuant to clause 7 of subsection 127(1) of the Act, Grossman and Ulfan shall immediately resign all positions that they may hold as a director or officer of any issuer;

f) pursuant to clause 8 of subsection 127(1) of the Act, Grossman and Ulfan are prohibited permanently from becoming or acting as a director or officer of any issuer;

g) pursuant to clause 8.1 of subsection 127(1) of the Act, Grossman and Ulfan shall immediately resign all positions that they may hold as a director or officer of any registrant;

h) pursuant to clause 8.2 of subsection 127(1) of the Act, Grossman and Ulfan are prohibited permanently from becoming or acting as a director or officer of any registrant;

i) pursuant to clause 8.3 of subsection 127(1) of the Act, Grossman and Ulfan shall immediately resign all positions that they may hold as a director or officer of any investment fund manager;

j) pursuant to clause 8.4 of subsection 127(1) of the Act, Grossman and Ulfan are prohibited permanently from becoming or acting as a director or officer of any investment fund manager;

k) pursuant to clause 8.5 of subsection 127(1) of the Act, Grossman, Maitland and Ulfan are prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

l) pursuant to subsection 37(1) of the Act, Grossman, Maitland and Ulfan are prohibited permanently from telephoning from within Ontario to residences within or outside Ontario for the purpose of trading in securities.

Dated at Toronto this 8th day of February, 2012.

"*Mary G. Condon*"

Mary G. Condon