



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF
DONNA HUTCHINSON, CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDEERS and PATRICK JELF CARUSO**

**SETTLEMENT AGREEMENT BETWEEN STAFF OF THE ONTARIO SECURITIES
COMMISSION AND DONNA HUTCHINSON**

PART I – INTRODUCTION

A. Regulatory Message

1. This is a case of insider tipping. Donna Hutchinson ("**Hutchinson**" or "**the Respondent**"), was a legal assistant at a law firm. She agreed to tip a good friend who was experiencing financial problems. He was to pass on the tip to a third party who would trade on the information. She has cooperated with Staff and implicated her friend and others in their serious misconduct. She is entitled to significant credit for her cooperation.

B. Notice of Hearing

2. The parties will jointly file a request that the Ontario Securities Commission (the "**Commission**") issue a Notice of Hearing (the "**Notice of Hearing**") to announce that it will hold a hearing (the "**Settlement Hearing**") to consider whether, pursuant to section 127 of the Act, it is in the public interest for the Commission to make certain orders against Hutchinson.

PART II - JOINT SETTLEMENT RECOMMENDATION

3. Staff of the Commission ("**Staff**") recommend settlement of the proceeding (the "**Proceeding**") against the Respondent commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part V of this Settlement Agreement. Staff and the Respondent consent to the making of an order (the "**Order**") in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out herein.

4. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

PART III - AGREED FACTS

A. Overview

5. The Respondent was initially employed as a legal assistant by a large Toronto law firm in 1983. (the "**Law Firm**"). In the early 2000s she stopped working at the Law Firm for approximately two years. She then resumed working for the Law Firm until September, 2017. The Law Firm handles a large volume of merger & acquisition ("**M&A**") work including some of the largest M&A transactions in Canada. From October 1, 2011 to April 30, 2016 (the "**Material Time**"), the Respondent provided assistance with M&A transactions during the course of her employment. It was a condition of her employment that she was to keep material information obtained during the course of her employment confidential. Hutchinson acknowledges that she was aware of her obligations in this respect. .

6. The Respondent knew the co-respondent, Cameron Edward Cornish ("**Cornish**") for approximately 18 years. At the beginning of their relationship, they resided together for approximately two years. After they stopped residing together, they remained good friends. During the Material Time, Hutchinson and Cornish were in regular and frequent contact.

7. Cornish was employed at a Toronto brokerage (the "**Toronto brokerage**") as an institutional trader and was registered with the Commission. Cornish maintained an institutional trading account at the Toronto Brokerage, where, through a profit-sharing agreement, he could realize trading profits from self-initiated trades.

8. During the Material Time, Cornish was a close friend of the co-respondent, Patrick Jelf Caruso ("**Caruso**"). Caruso holds trading accounts in his own name at Canadian brokerages; had trading accounts under corporate entities he has created, including Riverview Capital Inc. ("**Riverview Capital**"); and has a trading account in the name of Q Capital Investments Ltd. ("**Q Capital**"), a British Virgin Islands-incorporated entity that Caruso incorporated on May 8, 2012. Q Capital's trading accounts were held at an investment firm in Bermuda (the "**Bermudian Investment Firm**").

9. Cornish also knows the co-respondent David Paul George Sidders ("**Sidders**"). Sidders is a United Kingdom resident who is currently domiciled in Bermuda. Cornish has known Sidders for approximately 18 years. During the Material Time, he was a close friend of Cornish. Sidders held at least two trading accounts at a Panama-based brokerage house (the "**Panamanian Brokerage**"). One of Sidders' trading accounts

was registered in his name, and the other was in his Panama-incorporated company ("**Sidders' Company**").

10. Prior to the Material Time, Cornish began to experience financial problems. In order to assist her good friend with his financial problems, Hutchinson agreed to tip Cornish information respecting M & A transactions being handled by the Law Firm. It was her understanding that Cornish would not trade on this information himself but would pass it on to Caruso. Caruso had money and he would use the information to make trades.

11. The Respondent was unaware of the specific trading conducted by Caruso. She sometimes received small amounts of cash from Cornish for some of the tips she provided.

B. Tipping of Transactions

12. The Respondent tipped Cornish respecting the following M & A transactions:

Quadra FNX Mining Ltd.

(a) On December 6, 2011, KGHM Polska Miedz SA ("**KGHM**") publicly announced that it had agreed to acquire all the outstanding shares of Quadra FNX Mining Ltd. ("**Quadra**") for \$15.00 per share. Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) The Law Firm was retained by KGHM on the takeover of Quadra, and on October 14, 2011, the Law Firm opened a file.

(c) The Respondent became aware of the transaction and tipped Cornish. Hutchinson believes that Cornish tipped Caruso.

(d) Although the Respondent was not specifically aware of their trading:

(i) Between November 2, 2011 and December 5, 2011, Cornish accumulated Quadra securities through his institutional account at the Toronto Brokerage and earned a profit of approximately \$116,549.

(ii) Between November 8, 2011 and December 2, 2011, Sidders purchased shares of Quadra in his personal account at the Panamanian Brokerage.

- (iii) On December 6, 2011, after the Quadra takeover announcement was made, Sidders sold his shares and realized a profit of approximately \$220,000.
- (iv) Between November 24, 2011 and December 2, 2011, Caruso purchased and sold shares of Quadra through his Canadian brokerage account. Prior to the takeover announcement, he maintained a position of 3,800 shares.
- (v) On December 6, 2011, after the Quadra takeover announcement, Caruso liquidated his position, yielding an approximate \$23,600 profit.

(e) The Respondent received around \$2,000 or \$3,000 in cash through various payments from Cornish approximately one week after the transaction was publicly announced.

X Company

(a) On February 18, 2013, Y Company ("**Y Co.**") sent a non-public confidential expression of interest letter to X Company ("**X Co.**") to acquire X Co. for a combination of cash and Y Co. stock, which valued X Co. at approximately \$53.50 U.S. per share. The disclosure of this letter was not made public. On March 15, 2013, the board of directors of X Co. advised Y Co. that their offer was not sufficient to warrant further consideration.

(b) The Law Firm was retained by Y Co., and had opened a file respecting this transaction on September 12, 2012.

(c) Hutchinson tipped Cornish respecting the transaction.

(d) Hutchinson was not aware whether others traded on her tip with respect to this transaction, however:

- (i) Between February 20, 2013 and February 22, 2013, Sidders bought 7,000 shares of X Co in Sidders' Company account held at the Panamanian Brokerage.
- (ii) On February 21, 2013, Caruso, through his Q Capital account, bought 15,000 shares of X Co. Q Capital also purchased put options on the acquiring firm, Y Co., and call options on X Co.

(e) Hutchinson did not receive any money for her tip respecting this transaction.

Rainy River Resources Ltd.

(a) On May 31, 2013, Rainy River Resources Ltd. ("**Rainy River**") and New Gold Inc. ("**New Gold**") publicly announced that they had entered into a definitive acquisition agreement by which New Gold would acquire all the outstanding common shares of Rainy River for 0.5 of a common share of New Gold or \$3.83 in cash at the election of each shareholder. Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) The Law Firm was retained by Rainy River on May 14, 2013 to act on its acquisition by New Gold.

(c) Hutchinson tipped Cornish respecting the transaction.

(d) Although Hutchinson understood that Cornish would not trade on her tips, Cornish, through his institutional trading account, bought and sold shares of Rainy River on May 30, 2013, the day prior to the takeover announcement.

(e) Hutchinson does not recall receiving any money for her tip respecting this transaction.

Osisko Mining Corp.

(a) On April 16, 2014, Yamana Gold Inc. ("**Yamana**") and Agnico Eagle Mines Ltd. ("**Agnico**") announced that they have entered into an agreement pursuant to which Yamana and Agnico would jointly acquire Osisko Mining Corp. ("**Osisko**") for an approximate value of \$8.15 per Osisko share. Prior to the announcement, the transaction was confidential and was not generally disclosed.

(b) The Law Firm was retained by Agnico on January 16, 2014 as its legal counsel in connection with a possible acquisition of Osisko.

(c) Hutchinson tipped Cornish respecting this transaction.

(d) Although Hutchinson was not specifically aware of trading on her tip:

(i) Between April 14, 2014 and April 15, 2014, Caruso accumulated 70,000 Osisko shares in total between his Q Capital and personal Canadian brokerage accounts. On the announcement date, Caruso sold his shares for a profit of \$27,200.

(e) Hutchinson received a few thousand dollars from Cornish for her tip respecting this transaction.

Tim Hortons

(a) On August 26, 2014, Burger King Worldwide, Inc. ("**Burger King**") announced that they agreed to acquire Tim Hortons Inc. ("**Tim Hortons**") for approximately \$89.32 per share, through a combination of cash, and stock of the newly formed, corporate entity (the value was based on Burger King's August 22, 2014 closing price). Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) On February 24, 2014, the Law Firm was retained by Burger King.

(c) Hutchinson tipped Cornish respecting this transaction. Although she was not specifically aware of the trading of others with respect to this transaction:

(i) Between February 25, 2014 and September 11, 2014, Caruso, through his net accumulation of call option contracts and share purchases in Tim Hortons, made profits of approximately \$1.29M U.S. in the Q Capital account, and \$128,000 in his Canadian brokerage accounts.

(ii) Through his institutional trading account at the Toronto Brokerage, Cornish made a net accumulation of 3,500 Tim Hortons shares prior to the takeover announcement. After the public announcement, Cornish sold those shares for an approximate \$128,012 trading profit in his institutional trading account.

(d) Hutchinson received cash in a number of payments totalling approximately \$7,000 from Cornish

Xtreme Drilling and Coil Services Corp.

(a) On April 27, 2016, Schlumberger Limited ("**Schlumberger**") publicly announced their definitive agreement to acquire XSR Coiled Tubing Services Segment from Xtreme Drilling and Coil Services Corp. ("**Xtreme**") for approximately \$205M.

(b) The Law Firm was retained by Schlumberger on May 6, 2015.

(c) Hutchinson tipped Cornish respecting this transaction.

(d) Cornish told Hutchinson that "they" did not make any money on this deal.

(e) Between October 5, 2015 and April 26, 2016, Caruso through his Q Capital account, his Riverview Capital brokerage account and personal brokerage

accounts accumulated over 140,000 Xtreme shares. Caruso sold these shares after the announcement and realized a profit of over \$30,000.

(f) Hutchinson did not receive any compensation respecting this transaction.

C. Mitigating Factors

13. Staff note that in agreeing to the terms set out below, the Respondent has been granted substantial credit for cooperation, including the agreement to cooperate in the future by testifying for Staff as set out in paragraph 17 of this Settlement Agreement. Staff and the Respondent agree that the following are mitigating factors:

(a) The Respondent has acknowledged her involvement in this matter. The Commission will not have to expend any further resources in having to establish liability against her.

(b) The Respondent lost her position as a legal assistant. The Respondent is unemployed and without resources to pay monetary sanctions.

(c) The Respondent was manipulated by Cornish. He was an experienced trader who knew the value of the information to which Hutchinson was privy. He also knew how to use that information to enable his close friends to profit and to share those profits with him as well as trading on the information himself. At the same time, he failed to disclose the profits earned by him and others while only sharing relatively small sums with the Respondent compared to the profits earned by the co-respondents.

(d) The Respondent has no prior record of breaching Ontario securities law.

(e) The Respondent is not and has never been a registrant.

PART IV – CONTRAVENTIONS OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

14. By engaging in the conduct described above, Hutchinson admits and acknowledges that she breached Ontario securities law by contravening subsection 76(2) of the *Securities Act*, RSO 1990, c S.5 (the “**Act**”).

PART V - TERMS OF SETTLEMENT

15. The Respondent agrees to the terms of settlement set out below.

16. The Respondent consents to the Order, pursuant to which it is ordered that:

(a) this Settlement Agreement be approved;

(b) the Respondent be reprimanded;

(c) trading by the Respondent in any securities and derivatives cease for a period of two years commencing on the date of the Order, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

(d) the acquisition of any securities by the Respondent is prohibited for a period of two years, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

(e) any exemptions contained in Ontario securities law do not apply to the Respondent for two years;

(f) the Respondent resign any position she holds as a director or officer of any issuer, registrant or investment fund manager;

(g) the Respondent is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for two years; and

(h) the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or promoter for two years.

17. Hutchinson will cooperate with Staff in its investigation including testifying as a witness for Staff in any proceedings commenced or continued by Staff of the Commission relating to the matters set out herein and meeting with Staff in advance of that proceeding to prepare for that testimony.

18. The Respondent acknowledges that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other

jurisdiction in which the Respondent intends to engage in any securities - or derivatives - related activities, prior to undertaking such activities.

19. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub paragraphs 16(c), (d), (e), (f), (g) and (h) above. These sanctions may be modified to reflect the provisions of the relevant provincial or territorial law.

PART VI - FURTHER PROCEEDINGS

20. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement, in which case Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

21. The Respondent acknowledges that, if the Commission approves this Settlement Agreement and the Respondent fails to comply with any term in it, the Commission is entitled to bring any proceedings necessary.

22. The Respondent waives any defences to a proceeding that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

23. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's Rules of Procedure, adopted October 31, 2017.

24. The Respondent will attend the Settlement Hearing in person.

25. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

26. If the Commission approves this Settlement Agreement:

(a) the Respondent irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and

(b) the parties will not make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

27. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

28. If the Commission does not make the Order:

(a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing will be without prejudice to Staff and the Respondent; and

(b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

29. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

30. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

31. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Puerto Vallarta, this 20th day of April, 2018.

"Maria Magdalena Amarillas"

Witness: (print name):

"Donna Hutchinson"

Donna Hutchinson

DATED at Toronto, Ontario, this 20th day of April, 2018.

**STAFF OF THE ONTARIO SECURITIES
COMMISSION**

By: "Jeff Kehoe"

Name: Jeff Kehoe

Title: Director, Enforcement Branch

SCHEDULE "A"



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FILE NO.: 2017-54

**IN THE MATTER OF
DONNA HUTCHINSON, CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDEES and PATRICK JELF CARUSO**

Janet Leiper, Commissioner and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

April ____, 2018

ORDER

(Section 127 of the
Securities Act, RSO 1990, c S.5)

WHEREAS on April ____, 2018, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the approval of a settlement agreement dated April ____, 2018 (the **Settlement Agreement**) between Donna Hutchinson (the **Respondent**) and Staff of the Commission (**Staff**);

ON READING the Statement of Allegations dated September 21, 2017 and the Settlement Agreement and on hearing the submissions of representatives of Staff and the Respondent;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
3. trading by the Respondent in any securities and derivatives cease for a period of two years, pursuant to paragraph 2 of subsection 127(1) of the Act commencing on the date of the Order, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;
4. the acquisition of any securities by the Respondent is prohibited for a period of two years, pursuant to paragraph 2.1 of subsection 127(1) of the Act commencing on the date of the Order, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered

dealer in Canada to whom she must give a copy of this Order at the time he opens or modifies these accounts;

5. any exemptions contained in Ontario securities law do not apply to the Respondent for a period of two years, pursuant to paragraph 3 of subsection 127(1) of the Act;
6. the Respondent shall resign any position she holds as a director or officer of an issuer, registrant or investment fund manager, pursuant to paragraphs 7, 8.1, and 8.3 of subsection 127(1) of the Act commencing on the date of the Order;
7. the Respondent is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for a period of two years, pursuant to paragraph 8, 8.2 and 8.4 of subsection 127(1) of the Act; commencing on the date of the Order; and
8. the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act commencing on the date of the Order.

Janet Leiper

Deborah Leckman

Robert P. Hutchison