

**IN THE MATTER OF  
BENEDICT CHENG, FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND ERIC TREMBLAY**

**SETTLEMENT AGREEMENT WITH ERIC TREMBLAY**

**PART I - INTRODUCTION**

1. This is a case involving a former Ultimate Designated Person (“UDP”) of a registrant who made misleading statements to Staff (“Staff”) of the Ontario Securities Commission (the “Commission”) during an investigation into serious market misconduct. It is essential to the fairness of, and confidence in, Ontario’s capital markets, that senior registrants, such as Eric Tremblay (the “Respondent” or “Tremblay”), deal honestly with Staff and not make misleading statements in connection with investigations of behaviour that harms Ontario’s capital markets.

2. The parties shall jointly file a request that the Commission issue a Notice of Hearing (the “Notice of Hearing”) to announce that it will hold a public hearing (the “Settlement Hearing”) to consider whether, pursuant to section 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Tremblay.

**PART II - JOINT SETTLEMENT RECOMMENDATION**

3. Staff recommend settlement of the proceeding (the “Proceeding”) commenced by the Notice of Hearing dated April 12, 2017 against the Respondent in accordance with the terms and conditions set out in Part VI of this Settlement Agreement (the “Settlement Agreement”). The Respondent consents to the making of an order (the “Order”) in the form attached as Schedule “A” to this 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 conclusions in Part IV of this Settlement Agreement.

### **PART III - AGREED FACTS**

#### **Background**

5. In 2014, Tremblay was the Chief Executive Officer of Aston Hill Financial Inc. (“AHF”), the Chairman of the Board of Directors of AHF and the UDP of Aston Hill Asset Management Inc. (“AHAMI”), a wholly-owned subsidiary of AHF. He had been in these roles since 2006. Tremblay was also the Chairman of Argent Energy Trust and/or related companies (collectively, “Argent”) until May 20, 2014.

6. Between January 2007 and September 2016, Benedict Cheng (“Cheng”) was the President of AHF and the Co-Chief Investment Officer at AHF and AHAMI. Cheng had been registered with the Commission since at least 1997.

7. In 2014, JD Rothstein (“Rothstein”) was a senior Vice President and National Sales Manager at AHAMI.

8. In 2014, Frank Soave (“Soave”) was a First Vice President and Investment Advisor at CIBC Wood Gundy.

9. According to AHF’s Annual Information Form for the year ended December 31, 2014, in 2014:

- (a) AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds;
- (b) AHAMI was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds; and
- (c) AHF was a reporting issuer in Ontario with its shares publicly traded on the Toronto Stock Exchange under the symbol “AHF”.

10. AHF, through its Calgary office, had an administration and management agreement with Argent, which owned oil and gas assets in several US states. Argent’s securities were listed on the TSX.

11. On June 12, 2014, Amaya Inc. (“Amaya”) publicly announced a transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands, in a transaction valued at over US\$4 billion (the “Acquisition”). The Acquisition was a material fact in respect of Amaya. Cheng knew of the Acquisition before its existence was generally disclosed.

**Tremblay makes Misleading Statements to Staff**

12. Staff examined Tremblay under oath on or about May 26, 2016 and June 16, 2016 (the “Examination”). At the Examination, Tremblay made statements that, in a material respect and at the time and in the light of the circumstances under which they were made did not state a fact that was required to be stated or that was necessary to make the statement not misleading. In particular,

Tremblay denied any knowledge of Cheng informing Rothstein about material facts concerning Amaya before they were generally disclosed.

13. During a trip to Rio de Janeiro in mid-June 2014, Tremblay asked Cheng to join a conversation with Michael Killeen ("Killeen"), the Chief Operating Officer of AHF and the President of AHAMI. Killeen informed Tremblay and Cheng that John Hanrahan, the President, Chief Compliance Officer, CEO and UDP of Aston Hill Securities ("AHS") (another AHF subsidiary) had been looking into trading in Amaya securities by AHS brokers prior to the June 12, 2014 announcement of the Acquisition.

14. In or around late June 2014 Cheng spoke with Tremblay by telephone. Tremblay was concerned, as he had been for some time, about complaints concerning Argent's performance from Soave and other brokers at the CIBC Thornhill branch. In response, Cheng conveyed that he believed Rothstein had told Soave about the Acquisition.

15. On or about June 30, 2014, Cheng and other executives at AHF/AHAMI, including Tremblay, Killeen and Larry Titley ("Titley"), the Chief Financial Officer of AHF, were in the Dominican Republic.

16. In the mid-afternoon, Tremblay asked Cheng to meet with him and Killeen at a poolside cabana. During that conversation:

- (a) Killeen described the steps that he was taking with respect to his investigation into trading in Amaya at AHAMI. Tremblay wanted to know when the review would be finished; and

- (b) Later in the conversation, Tremblay mentioned to Killeen that Cheng had told Rothstein about the Acquisition and Cheng had suggested to Rothstein that he inform Soave about the Acquisition.

17. In late July 2014, likely on or about July 24, 2014, Tremblay recalls that he met Cheng, Killeen, Titley and others from AHF/AHAMI (specifically Sasha Rnjak, Derek Slemko and Kal Zakarneh) at the patio at Bymark restaurant on Wellington Street in Toronto. Tremblay does not recall whether or not he discussed with Killeen or others on the Bymark patio any matters concerning Amaya, but does not deny that such a discussion may have taken place.

18. By about June 30, 2014, Tremblay was aware that Rothstein obtained material facts concerning Amaya from Cheng that had not been generally disclosed.

19. Tremblay's conduct in making misleading statements to Staff was a breach of paragraph 122(1)(a) of the Act.

#### **PART IV - BREACHES OF THE ACT AND CONDUCT CONTRARY TO ONTARIO SECURITIES LAW**

20. By engaging in the conduct described above, the Respondent admits and acknowledges that he breached Ontario securities law by contravening paragraph 122(1)(a) of the Act and that his actions were contrary to the public interest.

#### **PART V - RESPONDENT'S POSITION**

21. Staff do not object to the mitigating circumstances set out by the Respondent below.

22. The Respondent requests that the Settlement Hearing panel consider the following mitigating circumstances:

- (a) **No prior record.** The Respondent has no prior record of breaching Ontario securities law (or criminal offences).
- (b) **Departure from capital markets.** After the events of 2014 set out in this Settlement Agreement, AHF was sold. Tremblay is no longer a registrant and no longer works in the capital markets.

#### **PART VI - TERMS OF SETTLEMENT**

23. The Respondent agrees to the terms of settlement set forth below. Subject to the Commission's approval of the Settlement Agreement, and prior to the Settlement Hearing seeking that approval, Tremblay shall pay to the Commission the sum of \$135,000 by bank draft or certified cheque in satisfaction of the administrative penalty and costs described in paragraphs 24(k) and 24(l), below (the "Settlement Payment"). For greater certainty, if the settlement is not approved by the Commission, the Settlement Payment shall be returned to Tremblay forthwith.

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

- (a) the Settlement Agreement is approved;
- (b) the Respondent is prohibited from trading in any securities or derivatives and from acquiring any securities for a period of 2 years from the date of the Order, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act;
- (c) any exemptions contained in Ontario securities law shall not apply to the Respondent for a period of 2 years from the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

- (d) the Respondent shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- (e) the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of 2 years from the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
- (f) the Respondent shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
- (g) the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of 2 years from the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
- (h) the Respondent shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
- (i) the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 2 years from the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
- (j) the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of 2 years from the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

- (k) the Respondent shall pay an administrative penalty in the amount of \$125,000.00, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;
- (l) the Respondent shall pay costs of the investigation in the amount of \$10,000, pursuant to section 127.1 of the Act;
- (m) Notwithstanding any other provision contained in the Order, the Respondent is permitted to:
  - (i) personally trade and/or acquire mutual funds, Exchange Traded Funds, government bonds and/or Guaranteed Investment Certificates for the account of any Registered Retirement Savings Plan ("RRSP"), Registered Retirement Income Fund ("RRIF"), Registered Education Savings Plan ("RESP") and Tax Free Savings Account ("TFSA"), as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended, in which he and/or his children and/or his spouse have sole legal and beneficial ownership, solely through a registered dealer in Alberta to whom Tremblay must have given a copy of the Order;
  - (ii) retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with Alberta securities law, to trade and/or acquire securities in any RRSP, RRIF, RESP and/or TFSA, on Tremblay's behalf, provided that:



- (1) the respective dealer/portfolio manager(s) is provided with a copy of the Order prior to trading or acquiring securities on Tremblay's behalf;
  - (2) the respective dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Tremblay has no direction or control over the selection of specific securities;
  - (3) Tremblay is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Tremblay providing information regarding general investment objectives, suitability and risk tolerance or as required under Canadian securities law; and
  - (4) Tremblay may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Tremblay within 30 days of making such change; and
- (iii) Within 60 days from the date of the Order, and with notice to the Commission, dispose of such securities which are not held in Tremblay's RRSP, RRIF, RESP and/or TFSA as described in subparagraph (i) above or otherwise transfer management of any such securities to a discretionary account as described in subparagraph (ii) above.

25. The Respondent consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 24 above, other than subparagraphs 24(a), 24(k) and 24(l). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

26. The Respondent acknowledges that this Settlement Agreement and Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of certain 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-related activities, prior to undertaking such activities.

## **PART VII - FURTHER PROCEEDINGS**

27. If the Commission approves this Settlement Agreement, Staff will not commence or continue any other proceeding under Ontario securities law against the Respondent based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any terms in this Settlement Agreement. In that 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.

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

## **PART VIII - PROCEDURE FOR APPROVAL OF SETTLEMENT**

29. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which will be held on a date to be determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's *Rules of Procedure*, (2017) 40 O.S.C.B. 8988.

30. The Respondent agrees to attend in person or by video or telephone at the Settlement Hearing.

31. 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. If the Commission approves this Settlement Agreement:

- (a) the Respondent waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and
- (b) neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional facts submitted at the Settlement Hearing,

32. 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 IX - DISCLOSURE OF SETTLEMENT AGREEMENT**

33. If the Commission does not approve this Settlement Agreement or 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;
- (b) the Settlement Payment shall be returned to Tremblay forthwith; and
- (c) 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 Amended Statement of Allegations in respect of this 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.

34. 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 X - EXECUTION OF SETTLEMENT AGREEMENT**

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

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

Dated at Toronto, Ontario this "29<sup>th</sup>" day of "August", 2018.

"Jacob Premuzak"

Witness (print name):

"Eric Tremblay"

**Eric Tremblay**

Dated at Toronto, Ontario, this "29<sup>th</sup>" day of "August", 2018.

**STAFF OF THE ONTARIO SECURITIES  
COMMISSION**

By: "Jeff Kehoe"

Name: **Jeff Kehoe**

Title: Director, Enforcement Branch

## SCHEDULE "A"



Ontario  
Securitiesvaleurs  
Commission  
3S8

Commission des  
mobilières  
de l'Ontario

22<sup>nd</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

22e étage  
20, rue queen ouest  
Toronto ON M5H

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**IN THE MATTER OF  
BENEDICT CHENG, FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND ERIC TREMBLAY**

[INSERT COMMISSIONERS OF THE PANEL]

\_\_\_\_, 2018

### ORDER

**Subsection 127(1) of the  
*Securities Act, RSO 1990, c S.5***

WHEREAS on \_\_\_\_, 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 an application made jointly by Eric Tremblay (**Tremblay** or the **Respondent**) and Staff of the Commission for approval of a settlement agreement dated \_\_\_\_, 2018 (the **Settlement Agreement**);

ON READING the Amended Statement of Allegations dated October 26, 2017 and the Joint Application Record for a Settlement Hearing, including the Settlement Agreement (**Agreement**);

AND ON HEARING the submissions of counsel for Staff and the Respondent, and considering that the \$125,000 administrative penalty and \$10,000 for costs payable by the Respondent has been received by the Commission in accordance with the terms of the Agreement;

IT IS ORDERED THAT:

1. the Agreement is approved;
2. the Respondent is prohibited from trading in any securities or derivatives and from acquiring any securities for a period of 2 years from the date of the Order, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act;
3. any exemptions contained in Ontario securities law shall not apply to the Respondent for a period of 2 years from the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;
4. the Respondent shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
5. the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of 2 years from the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
6. the Respondent shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
7. the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of 2 years from the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
8. the Respondent shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
9. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 2 years from the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
10. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of 2 years from the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

11. Notwithstanding any other provision contained in the Order, the Respondent is permitted to:

- a. personally trade and/or acquire mutual funds, Exchange Traded Funds, government bonds and/or Guaranteed Investment Certificates for the account of any Registered Retirement Savings Plan ("RRSP"), Registered Retirement Income Fund ("RRIF"), Registered Education Savings Plan ("RESP") and Tax Free Savings Account ("TFSA"), as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended, in which he and/or his children and/or his spouse have sole legal and beneficial ownership, solely through a registered dealer in Alberta, to whom Tremblay must have given a copy of the Order;
- b. retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with Alberta securities law, to trade and/or acquire securities in any RRSP, RRIF, RESP and/or TFSA, on Tremblay's behalf, provided that:
  - i. the respective dealer/portfolio manager(s) is provided with a copy of the Order prior to trading or acquiring securities on Tremblay's behalf;
  - ii. the respective dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Tremblay has no direction or control over the selection of specific securities;
  - iii. Tremblay is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Tremblay



providing information regarding general investment objectives, suitability and risk tolerance or as required under Canadian securities law; and

iv. Tremblay may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Tremblay within 30 days of making such change; and

c. within 60 days from the date of the Order, and with notice to the Commission, dispose of such securities which are not held in Tremblay's RRSP, RRIF, RESP and/or TFSA as described in subparagraph 11(a) above or otherwise transfer management of any such securities to a discretionary account as described in subparagraph 11(b) above.

12. the Respondent shall pay an administrative penalty in the amount of \$125,000.00, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and

13. the Respondent shall pay costs of the investigation in the amount of \$10,000.00, pursuant to section 127.1 of the Act.

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