



Ontario  
Securities  
Commission

Commission des  
valeurs mobilière  
de l'Ontario

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

**- AND -**

**IN THE MATTER OF EDA MARIE AGUECI, DENNIS WING, SANTO IACONO,  
JOSEPHINE RAPONI, KIMBERLEY STEPHANY, HENRY FIORILLO,  
GIUSEPPE (JOSEPH) FIORINI, JOHN SERPA, IAN TELFER,  
JACOB GORNITZKI and POLLEN SERVICES LIMITED**

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

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

**I. OVERVIEW**

**(a) General**

1. The respondents Eda Marie Agueci (“Agueci”), Dennis Wing (“Wing”), Santo Iacono (“Iacono”), Josephine Raponi (“Raponi”), Kimberley Stephany (“Stephany”), Henry Fiorillo (“Fiorillo”), Joseph Fiorini (“Fiorini”), John Serpa (“Serpa”), Jacob Gornitzki (“Gornitzki”) and Pollen Services Limited (“Pollen”) engaged in an illegal insider tipping and trading scheme which occurred between April 2007 and February 2008 (the “Relevant Period”).

2. The respondent Ian Telfer (“Telfer”) did not participate in the scheme but he later facilitated other conduct by Agueci and Iacono including disguising the beneficial ownership of securities and circumventing the monitoring by Agueci’s employer of her communications and trading, all of which was contrary to the public interest.

**(b) The Insider Trading and Tipping Scheme**

3. Agueci was employed as an executive assistant to the Chairman and to the mining group of the investment banking department of GMP Securities L.P. (“GMP”). She was a central figure in

the trading scheme. She sought out and acquired, through her employment or from others, material non-public facts concerning pending corporate transactions, which she would communicate to other respondents. In doing so, she repeatedly engaged in unlawful tipping, contrary to subsection 76(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

4. Those respondents who received this information from Agueci would then:
  - (a) trade in securities of the reporting issuers with knowledge of material facts with respect to the reporting issuers that had not generally been disclosed, thereby engaging in illegal insider trading contrary to subsection 76(1) of the Act; and/or
  - (b) inform other persons, other than in the necessary course of business, of material facts with respect to the reporting issuers before the material facts were generally disclosed, contrary to subsection 76(2) of the Act; and/or
  - (c) recommend investing in the reporting issuers to others, contrary to the public interest; and/or
  - (d) make payments to Agueci in relation to their illicit trading, contrary to the public interest.
5. Agueci also purchased the securities of a reporting issuer, in her own account and in an account in the name of her mother (the "First Secret Account"), after being advised of undisclosed material facts by Gornitzki, contrary to section 76 of the Act.
6. The illegal tipping and insider trading scheme involved trading in the securities of six reporting issuers and yielded trading profits of approximately \$962,000. In addition, Agueci received direct and indirect payments totalling \$25,000 from Wing in relation to this trading.
7. In order to conceal the unlawful trading activity, certain respondents engaged in the following additional conduct which was contrary to the public interest:
  - (a) the use of deceptive techniques, including avoiding the use of stock symbols in correspondence, in order to avoid detection by GMP's compliance department; and

- (b) Agueci also impersonated her mother on the telephone in order to execute trades in the First Secret Account and did not disclose that account nor her trades to GMP, as required by its compliance policies.

**(c) The Second Secret Account**

8. Later, Agueci's brother-in-law Iacono assisted Agueci to access and/or trade in a brokerage account (the "Second Secret Account") that was not disclosed to GMP, as required by its compliance policies.

9. Agueci's trading in the Second Secret Account included trading in securities which she was prohibited from trading because GMP had an active mandate in respect of a related transaction. Agueci and Iacono's conduct in relation to the Second Secret Account was contrary to the public interest.

10. Telfer provided Agueci with an opportunity to purchase shares that ultimately yielded substantial profits that funded Agueci's trading in the Second Secret Account. Telfer had agreed with Agueci to keep that share purchase transaction secret and to have another name (Iacono's) associated with the private share offering. He thereby enabled a transaction in which the beneficial owner of the shares was falsified. Telfer also advised and guided Agueci in avoiding detection by GMP of her email communications. His conduct was contrary to the public interest.

**(d) Other Contraventions**

11. In addition to the above,

- (a) Agueci and Wing each materially misled Staff during compelled examinations conducted as part of Staff's investigation, contrary to section 122 of the Act; and
- (b) Agueci also divulged the nature and contents of her compelled examination by Staff to others, including other respondents, despite having repeatedly acknowledged that she understood that such disclosure was prohibited. In doing so, she provided advance knowledge of Staff's investigation to others, contrary to section 16 of the Act.

## II. THE RESPONDENTS

12. Agueci is a resident of Toronto, Ontario. During the Relevant Period, she was employed as an executive assistant in the mining group of the investment banking department of GMP. She has been employed in the securities industry for over 20 years. In the normal course of her employment, Agueci regularly came in contact with material non-public facts concerning proposed corporate transactions for which GMP was retained as an advisor. She had full access to the email communications of the Chairman of GMP and occasional access to the emails of other investment bankers in the mining group at GMP. In her communications with others about trading, Agueci would refer to individuals and securities by code names, and asked others not to include stock names or symbols in emails sent to her GMP email address. These practices were designed to avoid detection by GMP's compliance department.

13. Wing is a resident of Toronto, Ontario. During the Relevant Period, Wing was the president, chief executive officer, ultimate designated person (UDP), chief compliance officer (CCO) and director of Fort House Inc. ("Fort House"), an investment dealer registered with the Commission. He is a Fellow of the Canadian Securities Institute (FCSI). Wing has been registered with the Commission since January 2002 in various categories including dealing representative, officer/director (trading), CCO and UDP. His registration ended on January 31, 2012. Wing and Agueci were close friends for many years.

14. Iacono (also known as "Tino") is a resident of Toronto, Ontario. During the Relevant Period, Iacono was a partner of S.I.R. Investment Inc. ("S.I.R. Investment"), a food services distribution company. Iacono is Agueci's brother-in-law.

15. Raponi (also known as "Josie") is a resident of Toronto, Ontario. During the Relevant Period, Raponi was a school teacher. Raponi is Agueci's cousin.

16. Stephany (also known as "Kim") is a resident of Toronto, Ontario. Stephany has been registered with the Commission since May 2004 as a dealing representative of an investment dealer or as a salesperson of an investment dealer. During the Relevant Period, Stephany worked as a trading assistant, initially at Fort House and then at Brant Securities Limited. Stephany and Agueci

met while previously working together at another investment firm and were close friends. In their communications about trading, Stephany and Agueci would refer to individuals by code names, and to the fact that they could not speak about their trading because they could be overheard.

17. Fiorillo is a resident of Toronto, Ontario. During the Relevant Period, Fiorillo was the president of Research Management Group. Fiorillo has been registered with the Commission in various capacities including as a director, officer and dealing representative at an exempt market dealer/limited market dealer in the period between August 2004 and April 2010. Fiorillo and Agueci have known each other for over 20 years and were close friends.

18. Fiorini (also known as “Joseph”) is a resident of Thornhill, Ontario. During the Relevant Period, Fiorini was a vice-president and director of corporate finance / investment banking with Desjardins Securities (“Desjardins”). During the Relevant Period, Fiorini and Agueci were friends who met periodically to discuss markets and trading.

19. Pollen is a company based in the British Virgin Islands (“BVI”). During the Relevant Period, Pollen maintained a trading/bank account in Switzerland. Wing directed all relevant trades on behalf of Pollen, which held assets for his offshore family trust, The Honey Trust.

20. Serpa is a resident of Toronto, Ontario. During the Relevant Period, Serpa was the president of S.I.R. Investment. Serpa and Iacono were business partners and close friends.

21. Telfer is a resident of Vancouver, British Columbia. During the Relevant Period, Telfer served in various capacities including as chairman of Goldcorp Inc. and Uranium One Inc. Telfer also acted as an advisor to, and was a significant shareholder of Gold Wheaton Gold Corp. (“Gold Wheaton”) and its predecessors. Telfer is a sophisticated businessman, with extensive involvement in corporate and securities transactions. He frequently retained GMP and other investment banking firms in connection with those transactions. Telfer and Agueci were close friends who have known each other for approximately 20 years.

22. Gornitzki is a resident of Toronto, Ontario. During the Relevant Period, Gornitzki was an advisor to various corporations seeking financing or engaging in other corporate transactions.

Gornitzki frequently used the offices of GMP to carry out his business activities and was in regular contact with Agueci.

23. During the Relevant Period, the respondents were in regular and frequent contact, and communicated on a regular basis about their trading and market activity.

### **III. TIPPING AND INSIDER TRADING**

#### **(a) Nu Energy Uranium Corporation**

24. On or before April 12, 2007, in his capacity as a consultant to Nu Energy Uranium Corporation (“NU”),<sup>1</sup> Gornitzki became aware of material non-public facts concerning a proposed acquisition by Mega Uranium Ltd. (“Mega”) of NU. Gornitzki was retained by NU as an advisor regarding financing and corporate transactions and was in a special relationship with NU by virtue of his involvement in this business or professional activity with and on behalf of NU.

25. By at least March 24, 2007, Gornitzki had agreed with senior management of Mega that Mega should acquire NU and had agreed to “*work on*” a senior representative of NU with a view to persuading NU to complete the transaction. During this period, senior management of Mega described Mega’s acquisition of NU as “*inevitable*”. Gornitzki was also aware that NU’s senior management wanted to obtain a price of at least \$5 per share in any takeover transaction.

26. Gornitzki was using the offices of GMP to carry out his business activities and was in regular contact with Agueci. On or before April 17, 2007, Gornitzki advised Agueci, other than in the ordinary course of business, of material facts related to the proposed acquisition of NU prior to that information having been generally disclosed.

27. On April 17, 2007, Agueci thanked Gornitzki for the tip related to NU to which he replied: “*You will not regret*” and “*Don’t worry*”. Immediately thereafter, Agueci’s advice to her friends and family members included that they “*MUST BUY*” shares of NU, that they would not regret it, and that the “*action begins next week*”, which were direct references to material undisclosed facts that Gornitzki had conveyed to her.

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<sup>1</sup> Also listed in corporate records as “NU Energy Uranium Corp.”.

28. She further advised that the price of NU shares would imminently increase. Iacono advised Agueci that he had told Serpa about NU. Agueci impressed upon Iacono that he should advise Serpa and others to purchase the shares “*before Friday*”.

29. Beginning on April 17, 2007, Agueci and her friends and family members began purchasing NU shares. In particular, the following respondents (the “NU Trading Ring”) bought NU shares after communicating with Gornitzki or other NU Trading Ring members by way of in-person meetings, phone calls or emails:

<b>Name</b>	<b>Date of Purchase</b>
Agueci	April 17, 19 and 20, 2007
Iacono	April 17 and 25, 2007
Serpa	April 25, 2007
Raponi	April 18 and 25, 2007
Fiorillo	April 20, 24 and 25, 2007
Wing (personally)	April 23 and 24, 2007
Fiorini	April 25 and 26, 2007

30. Agueci provided material non-public facts concerning the proposed acquisition of NU to the members of the NU Trading Ring, except Serpa who received that information from Iacono. Agueci and Iacono were in a special relationship with NU because they learned the material non-public facts from a person in a special relationship with NU.

31. When they purchased NU shares, the members of the NU Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Gornitzki, Agueci or Iacono prior to their respective purchases. In addition to the NU Trading Ring, at least three other friends of Agueci purchased NU shares in that same timeframe.

32. Agueci also used the same material non-public facts to purchase NU shares in a brokerage account in her mother’s name (the First Secret Account). She did so without the required trading authority and impersonated her mother on the telephone while giving the trading instructions. Agueci had opened the First Secret Account and signed her mother’s name on the account

application form. Agueci did not, at any time, report the account or her trades in the First Secret Account to GMP, as she knew was required by its compliance policies.

33. As an employee of GMP, Agueci certified, on an annual basis, that she had read and understood GMP compliance materials, which clearly stipulated that her trading accounts would be monitored by GMP and that she was further prohibited from operating or from having any “*authority*”, “*financial interest*” or “*influence*” in, any trading account undisclosed to GMP’s compliance department.

34. In connection with their purchases of NU shares described above:

- (a) Agueci’s purchases in her own account and the First Secret Account represented an amount greater than her annual gross salary;
- (b) Iacono’s purchase of NU shares was the largest trade in his account since he had opened it in September 2006;
- (c) the purchase of NU shares was the largest securities purchase that Serpa had made in the previous 14 months;
- (d) the purchase of NU shares were Iacono, Raponi, Fiorini, Wing and Serpa’s only purchases of shares in April 2007;
- (e) the NU shares were Raponi’s only securities investment at that time; and
- (f) the profitable trades by NU Trading Ring members involved trading profits ranging from 38 percent to 54 percent.

35. The “*action*” did start the following week, as disclosed by Gornitzki and Agueci.

36. On April 27, 2007, NU announced that it had entered into a binding letter of intent whereby Mega would acquire all of the outstanding shares of NU in exchange for common shares of Mega.

37. When Raponi had earlier suggested selling in order to “*play it safe*” on April 23, 2007, Agueci advised her that she had to “*wait just a little longer*”.

38. As Agueci had correctly advised others, the shares of NU also did gain in value. Several members of the NU Trading Ring sold their NU shares profitably. The total trading profits of the NU Trading Ring were approximately \$212,000.

39. On May 3, 2007, Agueci told Stephany that Wing wanted to buy her dinner to thank her, and stated “*I have better ways of being thanked.....\$\$\$\$\$*”.

40. Agueci was unable to sell the shares in her personal account profitably because NU retained GMP shortly before the announcement to provide financial advice in relation to the transaction, and the shares were placed on GMP’s restricted list.

41. Agueci complained frequently about her trading loss in NU shares and repeatedly requested that GMP take the transaction off the GMP restricted list, which was necessary in order for Agueci to sell the position in her personal account. Agueci recovered a portion of her trading losses in NU shares and other trading losses from others. Later, after reading a news article quoting Gornitzki, Agueci complained that: “[*Gornitzki*] said ‘*never invest on tips*’. *I wish I would have read this before I took his stock tip....*”

42. Agueci did, however, profitably sell the NU shares in the First Secret Account before NU was taken off GMP’s restricted list.

43. Gornitzki’s conduct in connection with NU constituted tipping, contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

44. Agueci and Iacono’s conduct in connection with NU constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

45. Agueci’s conduct in relation to the First Secret Account constituted insider trading contrary to subsection 76(1) of the Act and/or conduct contrary to the public interest.

46. Raponi, Fiorillo, Wing, Fiorini and Serpa’s conduct in connection with NU constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

(b) **Energy Metals Corporation**

47. On or before May 8, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of Energy Metals Corporation (“EMC”) by sxr Uranium One Inc. (now, Uranium One Inc.).

48. On May 7, 2007, the proposed transaction was placed on GMP’s grey list. Listing a security on the grey list indicates that GMP had an active mandate for a corporate transaction at the time and/or that GMP has inside information.

49. On Thursday, May 10, 2007, EMC’s board of directors approved GMP’s retainer to act as financial advisor to EMC’s special committee and to provide a fairness opinion in connection with this transaction. In connection with that mandate, GMP received transactional documents and other material non-public information concerning the proposed transaction, including that it was valued at \$1.2 billion.

50. On May 11, 2007, Agueci arranged for representatives of GMP to attend a May 15, 2007 EMC Board meeting in respect of the transaction.

51. Agueci also received a copy of a draft GMP fairness opinion with a share exchange ratio of 1.15 shares of sxr Uranium One Inc. for each share of EMC.

52. Agueci was in a special relationship with EMC by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of EMC.

53. Beginning on Monday, May 14, 2007, Agueci’s friends and family members began, for the first time, purchasing EMC shares. In particular, the following respondents (the “EMC Trading Ring”) bought EMC shares after communicating with Agueci or other EMC Trading Ring members by way of in-person meetings, phone calls or emails:

<b>Name</b>	<b>Date of Purchase</b>
Iacono	May 14, 2007
Serpa	May 14, 2007
Stephany	May 14 and 16, 2007
Raponi	May 17, 2007
Wing (personally and via Pollen)	May 14 and 15, 2007
Fiorini	May 14 and 17, 2007
Fiorillo	May 15, 17 and 18, 2007

54. Beginning on May 8, 2007 and before the announcement described below, Agueci advised the members of the EMC Trading Ring (except Serpa), other than in the ordinary course of business, of material undisclosed facts related to the proposed acquisition of EMC.

55. Iacono conveyed that information to Serpa prior to his trade. He did so after having asked Agueci whether she was “*sure with this*”, to which she responded: “*YES!*”. Iacono was in a special relationship with EMC because he learned the material non-public facts from Agueci, a person in a special relationship with EMC.

56. Stephany also used the material non-public facts to recommend that one of her clients, Client A, purchase EMC shares.

57. When they purchased EMC shares, the members of the EMC Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci or Iacono prior to their respective purchases. In addition, at least two other friends of Agueci purchased EMC shares during the same period.

58. The members of the EMC Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

59. In connection with their purchases of EMC shares described above:

- (a) Pollen did not purchase any shares other than EMC shares in its offshore account in May 2007. Wing's only purchase in his personal account in May 2007 was also EMC shares;
- (b) Pollen's investment in EMC shares exceeded \$1.2 million;
- (c) Iacono, Raponi, Fiorini and Serpa did very little buying or selling of securities in May 2007, other than EMC and NU shares;
- (d) Serpa's purchase of EMC shares surpassed the value of his unusually large prior purchase of NU shares;
- (e) Stephany's purchase of EMC shares was her largest securities purchase in May 2007, constituting approximately 66 percent of the value of her share purchases that month;
- (f) Fiorillo's purchases of EMC shares represented 72 percent of the value of his share purchases in May 2007; and
- (g) the EMC Trading Ring's profits on their EMC trades ranged from 6 to 23 percent.

60. On May 18, 2007, EMC announced that it was in exclusive negotiations concerning a potential sale of the company, following which EMC's share price rose.

61. The EMC Trading Ring sold their EMC shares, with some receiving profits. Raponi took steps to immediately sell her shares on the New York Stock Exchange on a holiday when Canadian markets were closed. The total trading profits of the EMC Trading Ring were approximately \$446,000.

62. Agueci's conduct in connection with EMC constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

63. Iacono's conduct in connection with EMC constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act, and/or was contrary to the public interest.

64. Wing, Pollen, Stephany, Raponi, Fiorini, Fiorillo and Serpa's conduct in connection with EMC constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

65. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

**(c) Yamana Gold Inc, Northern Orion Resources Inc. and Meridian Gold Inc.**

66. On or before May 28, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed three-way business combination between Yamana Gold Inc. ("Yamana"), Northern Orion Resources Inc. ("Northern Orion") and Meridian Gold Inc. ("Meridian").

67. GMP was retained to provide a fairness opinion to the board of directors of Northern Orion and, in that capacity, received transactional documents and other material non-public information concerning the proposed transaction. Each of Yamana, Northern Orion and Meridian had been placed on GMP's grey list on May 28, 2007.

68. In connection with the proposed business combination, on May 28, 2007, Agueci received a detailed presentation which had been prepared by Yamana and provided to Northern Orion. The presentation provided details of the proposed three-way business combination including a 25 percent premium to be bid by Yamana for 100 percent of the shares of each of Northern Orion and Meridian.

69. Yamana and Northern Orion then commenced negotiations of a letter agreement. GMP provided a verbal fairness opinion to the Northern Orion Board on June 13, 2007. Yamana, to the knowledge of Northern Orion and GMP, approached Meridian on June 15, 2007.

70. Agueci was in a special relationship with Northern Orion and Meridian by virtue of her involvement as a GMP employee in this business or professional activity with and on behalf of Northern Orion.

71. Beginning on June 13, 2007, Agueci's friends began purchasing securities of the above issuers. In particular, the following respondents (the "Northern Orion Trading Ring") bought Northern Orion and Meridian shares after communicating with Agueci or other Northern Orion Trading Ring members by way of in-person meetings, phone calls or emails:

<b>Name</b>	<b>Security</b>	<b>Date of Purchase</b>
Wing (via Pollen)	Northern Orion	June 13, 14, 15, 2007
	Meridian shares	June 18, 2007
Fiorini	Northern Orion shares	June 14, 2007

72. Prior to their respective purchases, Agueci advised the members of the Northern Orion Trading Ring, other than in the ordinary course of business, of material facts related to the proposed three-way business combination prior to that information having been generally disclosed.

73. When they purchased their Northern Orion and Meridian shares, the members of the Northern Orion Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci prior to their respective purchases.

74. In connection with their purchases of Northern Orion and Meridian shares described above:

- (a) Pollen did not purchase any shares other than Northern Orion and Meridian shares in its offshore account in June 2007;
  - (b) Pollen invested almost \$1.3 million in Northern Orion and Meridian shares;
  - (c) Fiorini purchased only three issuer's shares (including Northern Orion) in June 2007;
- and

(d) the percentage profits made by the Northern Orion Trading Ring ranged from 3 percent to 24 percent.

75. The members of the Northern Orion Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

76. On June 27, 2007, after the above purchases, Yamana and Northern Orion jointly announced that they had entered into a business combination agreement and a concurrent proposal had been made to Meridian with respect to the combination of the three companies.

77. Following this announcement, the share price for Northern Orion and Meridian rose and the Northern Orion Trading Ring sold their Northern Orion/Yamana and Meridian shares at a profit. The total trading profits of the Northern Orion Trading Ring were approximately \$215,000.

78. Agueci's conduct in connection with Northern Orion and Meridian constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

79. Wing, Pollen and Fiorini's conduct in connection with Northern Orion and/or Meridian constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

80. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

(d) **HudBay Minerals Inc.**

81. On or before July 17, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of HudBay Minerals Inc. ("HudBay") by Votorantim Metals Inc. ("Votorantim").

82. HudBay had received a non-binding proposal from Votorantim on July 17, 2007 to acquire 100 percent of the issued and outstanding shares of HudBay for between CAD\$30 and \$32. GMP was approached to advise the special committee of the board of HudBay in respect of the proposed acquisition, and the transaction was placed on GMP's grey list on July 17, 2007.

83. In connection with its mandate, GMP received transactional documents and other material non-public information concerning the proposed transaction. GMP's work on the proposed transaction continued through the summer and early fall of 2007, and included:

- (a) GMP planning further negotiations on August 10, 2007;
- (b) discussions between HudBay and GMP representatives on August 23 and 27, 2007; and
- (c) a two-day site visit to a HudBay site in Flin Flon, Manitoba by GMP representatives on September 6 and 7, 2007. That meeting was being planned at least by mid-August 2007.

84. Agueci was in a special relationship with HudBay by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of HudBay.

85. Beginning on July 20, 2007, Agueci's friends and family members began purchasing HudBay shares. In particular, the following respondents (the "HudBay Trading Ring") bought HudBay shares after communicating with Agueci or other HudBay Trading Ring members by way of in-person meetings, phone calls or emails:

<b>Name</b>	<b>Date of Purchase</b>
Wing (personally and via Pollen)	July 20 and 31 and August 2, 2007
Stephany	August 3, 8 and 15, 2007
Fiorini	August 13 and September 17, 2007
Fiorillo	August 20 and September 7, 11, 12, 14 and 18, 2007
Raponi <sup>2</sup>	August 29, 2007
Iacono	September 6, 2007

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<sup>2</sup> Staff notified Ms. Wendy Berman, (then) counsel for Ms. Raponi, of this amendment by letter dated March 14, 2012.

Serpa	September 7, 2007
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86. Beginning on July 17, 2007, Agueci advised the members of the HudBay Trading Ring (except Serpa), other than in the ordinary course of business, of material undisclosed facts related to the proposed acquisition of HudBay. Iacono conveyed that information to Serpa prior to his trade. Iacono was in a special relationship with HudBay because he learned the material non-public facts from Agueci, a person in a special relationship with HudBay.

87. Stephany also used the material non-public facts to recommend that one of her clients, Client A, purchase HudBay shares.

88. When they purchased the HudBay shares, the members of the HudBay Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci or Iacono prior to their respective purchases. In addition, at least one other friend of Agueci purchased HudBay shares during the same period.

89. The members of the HudBay Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

90. In connection with their purchases of HudBay shares described above:

- (a) Pollen did not purchase any shares other than HudBay shares in its offshore account in July and August 2007. Pollen invested almost \$1.4 million in HudBay shares;
- (b) Wing's only purchases of securities in August 2007 were of HudBay shares;
- (c) Iacono, Raponi and Serpa did not purchase any shares other than HudBay shares in the months of their respective trades;
- (d) other than HudBay shares, Fiorini purchased few issuer's shares in August and September 2007;

- (e) Stephany purchased only one security other than HudBay shares in August 2007, and her HudBay purchases represented 76 percent of the value of her total share purchases in August 2007;
- (f) Fiorillo's purchases of HudBay shares in August and September 2007 represented 21 percent and 65 percent of the value, respectively, of his total share purchases for those months;
- (g) the HudBay shares were Raponi's only securities investment at that time;
- (h) Serpa's purchases of HudBay shares were the second largest purchases he had made in the period between February 2006 and September 2007; and
- (i) Serpa's investment in HudBay was valued at over 66 percent of his total portfolio as at the end of August 2007.

91. Ultimately, the transaction did not go forward, but this was not known until September 19, 2007. Agueci was on vacation shortly after GMP learned that the transaction would not go forward.

92. Raponi and Stephany sold their HudBay shares shortly after September 19, 2007, after communicating with Agueci. The remaining members of the HudBay Trading Ring sold their shares after Agueci returned from her vacation, and most of them sold their shares profitably. The total trading profits of the HudBay Trading Ring were approximately \$34,000.

93. Agueci's conduct in connection with HudBay constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

94. Iacono's conduct in connection with HudBay constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act, and/or was contrary to the public interest.

95. Raponi, Stephany, Serpa, Wing, Pollen, Fiorini and Fiorillo's conduct in connection with HudBay constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

96. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

97. Also, Agueci received payments from Wing in connection with his and Pollen's profitable trades described herein. In connection with his payment to her, Wing advised Agueci to open a bank account in England and to use her "*mother's address...not your own*", advised that "*doing smaller amounts is the right way to do it*", and advised that once that account was opened "*more can be done*". He further counselled her that "*being careful is always the top priority*". The conduct of Wing in respect of these payments was contrary to the public interest.

(e) **Coalcorp Mining Inc.**

98. On or before January 29, 2008, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of Coalcorp Mining Inc. ("Coalcorp") by an investor group consisting of Pala Investments Holdings Limited and others (the "Pala Group").

99. In particular, Agueci was aware that the Pala Group had made a non-binding proposal to make an all-cash acquisition of 100 percent of the outstanding common shares of Coalcorp for a price of \$2.75 per share plus the assumption of all of Coalcorp's existing net debt.

100. GMP was retained to advise Coalcorp in respect of the proposed transaction. In connection with that mandate, GMP received transactional documents and other material non-public facts concerning the proposed transaction.

101. Agueci was in a special relationship with Coalcorp by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of Coalcorp.

102. Beginning on January 30, 2008, Agueci's friends and family members began purchasing Coalcorp shares. In particular, the following respondents (the "Coalcorp Trading Ring") bought

Coalcorp shares after communicating with Agueci by way of in-person meetings, phone calls or emails:

<b>Name</b>	<b>Date of Purchase</b>
Raponi	January 30 and 31, 2008
Stephany	January 30, 2008
Fiorini	January 30 and 31, 2008
Fiorillo	January 30 and 31, 2008

103. On January 29 and 30, 2008, Agueci advised the members of the Coalcorp Trading Ring, other than in the ordinary course of business, of material facts related to the proposed acquisition of Coalcorp prior to that information having been generally disclosed.

104. Only Fiorillo had previously invested in Coalcorp and that investment had occurred more than one year previously. When they purchased the Coalcorp shares, the members of the Coalcorp Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci prior to their respective purchases. In addition, at least two other friends of Agueci purchased Coalcorp shares during the same period.

105. The members of the Coalcorp Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

106. In connection with their purchases of Coalcorp shares described above:

- (a) Raponi did not purchase any shares other than Coalcorp in January and February 2008;
- (b) the Coalcorp shares represented Raponi's only securities investment at that time;
- (c) other than Coalcorp shares, Fiorini and Stephany purchased few issuer's shares in January and February 2008; and
- (d) the Coalcorp Trading Ring's profits ranged from 28 percent to 49 percent.

107. On February 1, 2008, Coalcorp announced that it had received a non-binding unsolicited proposal from a third party to acquire all of the issued and outstanding common shares of Coalcorp. The undisclosed third party was the Pala Group.

108. The members of the Coalcorp Trading Ring profitably sold their Coalcorp shares on or after February 1, 2008. The total trading profits of the Coalcorp Trading Ring were approximately \$55,000.

109. Agueci's conduct in connection with Coalcorp constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

110. Raponi, Stephany, Fiorini and Fiorillo's conduct in connection with Coalcorp constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

#### **IV. OTHER CONDUCT CONTRARY TO THE PUBLIC INTEREST**

##### **(a) Communicating by Blackberry (PIN) to Avoid Detection**

111. Telfer and Agueci were close friends over a period of many years.

112. The GMP compliance department monitored email communications of employees, including Agueci, on a regular basis. Such communications were monitored in order to ensure compliance with regulatory and other GMP requirements, including insider trading and tipping laws.

113. Telfer and Agueci were aware that email communications were monitored by GMP. As an employee of GMP, Agueci certified, on an annual basis, that she had read and understood the following provisions from GMP compliance materials, which reminded employees of GMP's monitoring procedure and the prohibition against circumvention:

*All e-mail is filtered when it enters or leaves the GMP network.  
Filtering is provided for both security and Compliance purposes...*

*No employee shall attempt to circumvent any filtering system...*

*Employees are reminded that the Compliance department actively monitors all e-mail communication on a regular basis. (emphasis in original)*

114. Telfer advised Agueci as to how to circumvent these policies.

115. Specifically, on January 29, 2008, Telfer advised Agueci not to use emails to communicate with him. Instead, he provided her with step-by-step instructions as to how to communicate by Blackberry PIN messages in order to ensure that: “*Messages don’t go to the gmp server. They go straight to blkberry*”. He advised that, “*instead of emailing*”, this method of communication was to be used with him and other “*very close friends*”.

116. The use of Blackberry PIN messages is a technique that Agueci subsequently used to communicate with Telfer as well as others in connection with her trading activities. Telfer would repeatedly request updated PIN numbers from Agueci. Agueci would refrain from corresponding with Telfer by email due to her concern of leaving an “*email trail*”.

117. By engaging in the foregoing conduct, which consisted of advising and guiding Agueci, an individual with disclosure obligations, in avoiding detection by GMP of her email communications, Telfer engaged in conduct contrary to the public interest.

**(b) 222 Pizza Express Corp.**

118. A few months later, in April 2008, Telfer provided Agueci with the opportunity to purchase 500,000 common shares in a private share offering in 222 Pizza Express Corp. (“222 Pizza”). Telfer was very optimistic about the prospects for these shares.

119. Agueci arranged for her brother-in-law, Iacono, to assist her in the purchase of the 222 Pizza shares, since Agueci and Telfer had agreed that the shares should not be purchased in Agueci’s name in order to ensure the secrecy of the transaction.

120. In return for a fifty percent interest in the 222 Pizza shares, Iacono facilitated the transaction for Agueci by purchasing the shares in his name for \$5,000. He then deposited them in the Second Secret Account. Fifty-percent of the 222 Pizza shares were held in the Second Secret Account for the benefit of Agueci.

121. Prior to this transfer, Telfer corresponded directly with Iacono, advised him of particulars of the transfer and emphasized that Iacono should “*keep this information confidential*”.

122. Given his extensive experience in corporate transactions and in retaining and instructing investment banking advisors, Telfer knew, or reasonably ought to have known, that Agueci had disclosure obligations and trading restrictions as an employee of an investment banking and brokerage firm who had regular access to material non-public information. He knew or ought to have known that she was prohibited from engaging in undisclosed securities transactions.

123. The 222 Pizza shares held in the Second Secret Account yielded a return of over \$500,000 following a corporate reorganization, investment in gold stream royalty agreements, and the renaming of 222 Pizza to Kadywood Capital Corp and then Gold Wheaton.

124. Iacono subsequently sold the majority of the Gold Wheaton shares and reinvested the proceeds in various other securities in the Second Secret Account over a period of three years, on his own behalf or at Agueci’s direction.

125. Agueci directed trading in the following shares in the Second Secret Account while those issuers were on either the GMP grey list or the GMP restricted list: HudBay (November 2008 and January 2009) and Kadywood Capital Corp. (June and July, 2008). Listing a security on the grey or restricted list indicates that GMP had an active mandate for a corporate transaction at the time and/or that GMP has inside information.

126. Further to her secrecy agreement with Telfer, Agueci did not report her beneficial ownership of the shares held in Iacono’s account, nor the transactions in the account to GMP compliance. As such, GMP’s compliance department was unable to monitor trading in that undisclosed account to ensure that Agueci was not conducting trades with the benefit of material non-public information.

127. Iacono transferred funds from the Second Secret Account to Agueci or on her behalf, at her request. In order to avoid regulatory detection, Iacono paid these funds to third parties on Agueci’s behalf or frequently to Agueci in allotments of less than \$10,000. Over the course of three years, Agueci thereby withdrew almost \$200,000 from the Second Secret Account.

128. Agueci's conduct in arranging, maintaining and failing to disclose her interest and trading to GMP in the First and Second Secret Accounts was contrary to the public interest. In addition, Agueci's ongoing trading in those accounts, as well as the manner of withdrawals from those accounts, was contrary to the public interest.

129. Iacono's conduct in assisting Agueci to maintain and illicitly trade in an account that was not disclosed to GMP, as well as the manner of withdrawals from this account, was contrary to the public interest.

130. Telfer's agreement with Agueci, a person with securities transaction reporting obligations, to keep the 222 Pizza share purchase transaction secret and to have another name associated with the private share offering enabled a transaction in which the beneficial owner of the shares was falsified. His conduct was contrary to the public interest.

## **V. MISLEADING STATEMENTS**

### **(a) Agueci's Misleading Statements**

131. During Agueci's compelled examination during Staff's investigation, she made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

132. In particular, Agueci misled Staff by:

- (a) failing to disclose her direct or indirect interest and involvement in other brokerage accounts, including the First and Second Secret Accounts;
- (b) advising Staff that Iacono did not execute trades on her behalf in the Second Secret Account;
- (c) advising Staff that she did not know what investments were in the Second Secret Account;

- (d) advising Staff that she assisted her mother in trading in the First Secret Account by at all times calling the brokerage firm with her mother on the line and having her mother confirm her identity; and
- (e) failing to disclose the nature and source of payments received and made by her as well as others on her behalf, including payments provided to her from the Second Secret Account.

133. These statements were materially misleading and were not corrected by Agueci until she was confronted with evidence to the contrary by Staff, or at all. These statements concealed the truth, which was that Agueci had an interest in brokerage accounts in which she was trading securities, including trades in securities while such issuers were on the GMP grey or restricted list. Furthermore, her misleading statements concealed the fact that her interest and trading in the First and Second Secret Accounts were not reported to GMP in accordance with its compliance policies.

134. Agueci's conduct in making misleading statements to Staff was a breach of s. 122 of the Act and/or were contrary to the public interest.

**(b) Wing's Misleading Statements**

135. During Wing's compelled examination during Staff's investigation, he made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state facts that were required to be stated or that were necessary to make the statements not misleading, all contrary to s. 122 of the Act.

136. In particular, Wing made misleading statements concerning his activities and involvement with offshore entities and other brokerage and bank accounts, including offshore accounts. During his first interview, Wing denied having any offshore bank or brokerage accounts, including any signing authority or beneficial interest in such accounts.

137. Staff, however, later obtained documents from other jurisdictions that revealed that Wing had power of attorney over an offshore account in the name of Pollen (the "Offshore Pollen

Account”), he had directed trading and/or banking in the account, and that he also had an offshore account in his own name. The Offshore Pollen Account had 12 sub-accounts and traded securities on multiple exchanges, in numerous jurisdictions and in a variety of different currencies. The account, in particular, had also traded in several securities of concern to Staff, as noted above.

138. When Wing returned for a continued examination, he denied any knowledge of or association with Pollen, including any accounts or trades executed on its behalf. He further denied any knowledge of, association with, or role in entities (including individual representatives thereof) who created, administered, or were otherwise connected to Pollen, including Wing’s family trust (The Honey Trust) and the numerous firms which provided services in relation to the Offshore Pollen Account.

139. Wing’s statements were misleading and were not corrected by Wing until he was confronted with evidence to the contrary by Staff, or at all. Throughout his examinations, Wing would alter his version of events only slightly to correspond with each of the documents that he was shown, while still continuing to deny any greater involvement with the Offshore Pollen Account.

140. Wing ultimately admitted that he had established Pollen and The Honey Trust, had sole signing authority over the Offshore Pollen Account and that he had also directed trading and other activity in this account. He further admitted to having established and directed trading for Pollen in a Canadian account held at Fort House (the “Canadian Pollen Account”), despite the account having been put under a different name.

141. In making numerous misleading statements to Staff, Wing undermined Staff’s ability to fulfill the Commission’s statutory mandate, breached s. 122 of the Act and/or acted contrary to the public interest.

## **VI. CONFIDENTIALITY OF INVESTIGATION**

142. During Agueci’s compelled examination, she acknowledged that she understood the confidentiality of Staff’s investigative process under s. 16 of the Act. However, she divulged the nature and content of her compelled examinations to others who were interviewed by Staff.

143. Agueci's disclosures to other witnesses included:

- (a) particulars of the securities being reviewed by Staff,
- (b) the timeframe of Staff's investigation,
- (c) the documents and other information in Staff's possession, and
- (d) the questions asked by Staff (together with the answers that she gave).

144. By supplying this information, Agueci provided other witnesses interviewed by Staff with an opportunity to tailor their evidence to hers. Agueci's conduct undermined Staff's ability to fulfil its statutory mandate.

145. The disclosures by Agueci concerning Staff's investigation were contrary to s. 16 of the Act and/or were contrary to the public interest.

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

**DATED AT TORONTO** this 26th day of September, 2013.