

**ALBERTA SECURITIES COMMISSION**

**DECISION**

**Citation: Cameron, Re, 2006 ABASC 1793**

**Date: 20061114**

**Docket: E/03362**

**James Harvey Cameron and Venture Trading Inc.**

**Panel:** James A. Millard, QC, Member  
Neil W. Murphy, Member

**Appearing:** Samir Sabharwal  
For Commission Staff

Arthur Stacey  
(by telephone)  
For the Respondents

**Date of Hearing:** November 1, 2006

**Date of Decision:** November 14, 2006

## I. INTRODUCTION

[1] This matter originated in a Notice of Hearing issued by the Alberta Securities Commission (Commission) on September 21, 2006. Staff of the Commission (Staff) sought a number of orders against James Harvey Cameron (Cameron) and Venture Trading Inc. (VTI) (collectively, Respondents) under sections 198 and 202 of the *Securities Act*, R.S.A. 2000, c. S-4 (the Act).

[2] The Notice of Hearing was followed by the issuance by the Commission on October 3, 2006 of an Interim Cease Trade Order (the Interim Order) pursuant to which it was ordered that, without the leave of the Commission:

- all trading in securities of VTI cease;
- each of Cameron and VTI cease trading in all securities, and
- all exemptions contained in the Alberta securities laws do not apply to the Respondents.

[3] The Interim Order took effect immediately upon issuance and was stated to expire in 15 days unless extended by the Commission.

[4] In connection with the issuance of the Interim Order, Staff introduced into evidence an affidavit of Thomas Ritchie, a securities investigator with the Commission, sworn October 2, 2006 (the Ritchie Affidavit).

[5] The Ritchie Affidavit contained as Exhibit "A" a copy of an order dated April 11, 2005 (the BCSC Order) issued by the Executive Director of the British Columbia Securities Commission (the BCSC). The BCSC Order emanated from a Settlement Agreement dated April 5, 2005 (the BCSC Settlement Agreement) entered into between the Executive Director and the Respondents which was attached as Schedule A to the BCSC Order.

[6] In the BCSC Settlement Agreement the Respondents admitted that:

- between May 2002 and August 2003, VTI sold its securities to at least 90 residents of British Columbia, Alberta and elsewhere;
- VTI did not file a prospectus under the *British Columbia Securities Act*, R.S.B.C. 1996, c. 418 (the BC Act) with respect to such sales of securities;
- VTI was unable to rely upon any statutory exemptions from the registration and prospectus requirements of the BC Act in respect of British Columbia residents to whom such securities were distributed;
- such distributions constituted an illegal distribution of securities in contravention of the BC Act, and
- VTI made misrepresentations on its website as to the performance of its preferred shares in contravention of the BC Act.

[7] Under the BCSC Settlement Agreement the Respondents also acknowledged that:

- VTI is incorporated under the laws of Alberta;
- VTI is not a reporting issuer in Canada;
- VTI does not have any of its securities listed and posted for trading or quoted on any exchange or quotation system;
- Cameron is an Alberta resident and was at all material times the controlling mind of VTI; and
- Cameron was directly responsible for the illegal distribution made by VTI and its website misrepresentation referred to in paragraph [6].

[8] The BCSC Order provided that, among other things that:

- Cameron and VTI are each prohibited from trading in any securities for four years, and
- Cameron resign any position he may hold as a director or officer of any issuer and is prohibited from becoming or acting as a director or officer of any issuer for four years from the date of the order.

[9] On October 18, 2006, upon the application of Staff made on October 13, 2006 and with the consent of the Respondents, the Commission ordered that the Interim Order be extended until the hearing in this matter is concluded and a decision is rendered or until otherwise ordered.

## **II. THE PRESENT PROCEEDING**

[10] We heard this matter on November 1, 2006. Counsel for Staff and the Respondents made oral submissions. Cameron attended the hearing by way of telephone and, at the invitation of the Panel, made certain representations. No witnesses were called.

[11] At the hearing Staff introduced into evidence a second affidavit of Thomas Ritchie sworn October 30, 2006. In our view, the contents of this affidavit were not relevant to the specific subject matter of the hearing and therefore we did not consider it in our analysis and findings.

[12] Staff sought sanctions against the Respondents in reliance on paragraph 198(1.1)(c) of the Act which enables the Commission to make orders against a person or company found by a decision-maker in another Canadian jurisdiction "to have contravened the securities laws" of that jurisdiction.

### **III. SUBMISSIONS ON SANCTIONS**

[13] The order proposed by Staff as set out in the Notice of Hearing (taking into account a date correction required to accord with terms of the BCSC Order) would provide that:

- under paragraphs 198(1)(a) and (b) of the Act, the Respondents cease trading in and purchasing securities until April 11, 2009;
- under paragraph 198(1)(c) of the Act, any or all of the exemptions contained in Alberta securities laws do not apply to the Respondents until April 11, 2009;
- under paragraphs 198(1)(d) and (e) of the Act, Cameron resign all positions that he holds as a director or officer of any issuer and that he be prohibited from becoming or acting as such until April 11, 2009, and
- under subsections 202(1) and (2) of the Act, the Respondents pay the costs of the investigation and hearing to the Commission.

[14] Counsel for the Respondents advised that he concurred with the terms of the proposed order other than those dealing with the cease trading ban imposed on Cameron and payment of costs.

### **IV. ANALYSIS AND FINDINGS**

#### **A. Subsection 198(1.1) Requirements**

[15] Subsection 198(1.1) of the Act provides for the issuance of sanctioning orders on the basis of an existing finding by a decision-maker in another Canadian jurisdiction. In *Re O'Connor*, 2005 ABASC 987, the Commission set forth the following prerequisites to the application of subsection 198(1.1), namely:

- the respondent must be given an opportunity to be heard, and
- the respondent must have been found by another decision-maker in Canada (in *O'Connor* and in this case, the BCSC) to have contravened the law (in *O'Connor* and in this case, the securities laws of British Columbia).

[16] In our opinion, these two prerequisites are met. The Respondents were represented by counsel who made submissions on their behalf. Cameron also made representations to the Panel. We believe that the BCSC Order represents a "finding" by the BCSC of contraventions by the Respondents of British Columbia securities laws.

#### **B. Public Interest Considerations**

[17] Staff argued that it is in the public interest under subsection 198(1.1) of the Act that the Commission issue the form of order sought against the Respondents. In addition to the admitted contraventions by the Respondents of the BC Act and the sale of the securities in question to Alberta residents, Staff alleged current activity by Cameron in

the Alberta capital market, referring to exhibits to the Ritchie Affidavit to support such allegation.

[18] We believe this is an appropriate case for the exercise of our public interest jurisdiction under the Act for the following reasons:

- the BCSC Settlement Agreement records the Respondents' admissions that they were active in the Alberta capital market and solicited and made distributions of securities to Alberta residents;
- the Ritchie Affidavit confirms that Cameron is a resident of Alberta and that VTI is an Alberta corporation;
- the Ritchie Affidavit also indicates that in the very recent past Cameron has been active in the Alberta capital market and this was not denied by Cameron or his counsel; and
- the continuation of Cameron's activities in the Alberta capital market represents a risk to Alberta investors unless protective action is taken.

### **C. Proposed Variances to the BC Order**

[19] The BCSC Order is the basis for the application of subsection 198(1.1) of the Act in the issuance of a "reciprocal order" by this Commission. Such orders generally ought to be consistent with the order upon which the application is based, unless there is a valid reason for any difference. This view was expressed by the Commission in *Re Oslund*, 2006 ABASC 1295.

[20] Sanctions similar to those imposed under the BCSC Order pursuant to sections 161(1)(a) and 161(1)(d)(iii) of the BC Act were not sought by Staff. The sanction sought by Staff denying exemptions to the Respondents pursuant to subsection 198(1)(c) of the Act has no counterpart in the BCSC Order. No provision for payment of costs is contained in the BCSC Order, the BCSC Settlement Agreement having included a provision for payment by the Respondents of an amount of \$10,000 to the BCSC. In these respects the order proposed by Staff varies from the BCSC Order.

[21] The order proposed by Staff and, with the exceptions noted below, agreed to by counsel for the Respondents, would preclude Cameron from acting as a director and officer of any issuer and deny the Respondents access to the Alberta capital market until April 11, 2009 which aligns the expiry of those sanctions with similar sanctions prescribed in the BCSC Order.

[22] Cameron's counsel submitted that an exception to the securities trading ban being sought against his client should be made to permit Cameron to trade in securities held in his name or in a personal account through a registered dealer so that Cameron could support himself and his family. Cameron's oral submission to the Panel was to the effect that he was "getting out of the business" and required this exception to the proposed trading ban to do so.

[23] Staff objected to Cameron's request on the basis that Cameron's conduct did not entitle him to the benefit of access to the Alberta capital market. However, we do not believe that the limited exception to the trading ban sought by Staff would materially impair the protective and deterrent effects of the proposed order.

[24] In our view, permitting Cameron to sell securities held in his name or in a personal account through a registered dealer to whom Cameron has first provided a copy of this decision for the purposes of liquidating his securities portfolio would not be inconsistent with the public interest.

#### **D. Costs of the Investigation and Hearing**

[25] Counsel for Staff provided the Panel with a statement of "Investigation and Hearing Costs" (the Statement) under Rule 191.1(a) and (f) and Rule 191.2(k) totalling \$3,212.50. The Statement sets out the nature of the services performed, hours expended and applicable professional fees.

[26] Subsections 202(1) and (2) of the Act provide that if, in respect of a person or company whose affairs were the subject of an investigation or a hearing, the Commission

...

- (a) is satisfied that the person or company has not complied with, or is not complying with, any provisions of the Alberta securities laws, or
- (b) considers that the person or company has not acted in the public interest

the Commission may order the person or company to pay the costs incurred by or on behalf of the Commission.

[27] On the basis of the evidence provided in the Ritchie Affidavit we are satisfied that Cameron has not complied with and is currently not complying with Alberta securities laws and has not acted in the public interest. It is therefore appropriate that the order sought by Staff should contain a provision for the payment of costs incurred by the Commission in connection with its investigation and this hearing.

[28] Counsel for the Respondents argued that the costs sought were excessive given the straightforward nature of these proceedings and the elements of consent and co-operation exhibited by the Respondents. Counsel for Staff defended the Statement stating that it represented fairly the investigative and legal services provided and time devoted to such services.

[29] After considering this matter, we are of the opinion that the Statement is reasonable. We note that three Commission appearances were required involving Staff counsel. We do not believe a reduction in the amount of costs sought under the Statement is justified.

**E. Conclusion**

[30] In our view, the requirements under subsection 198(1.1) of the Act for the issuance of a reciprocal order are satisfied.

**V. ORDERS**

[31] For the reasons given, we order:

- under paragraph 198(1)(b) of the Act, that the Respondents each cease trading in and purchasing securities until April 11, 2009, except that Cameron may for the purposes of liquidating his securities portfolio sell securities held in his name or in a personal account through a registered dealer to whom Cameron has first provided a copy of this decision;
- under paragraph 198(1)(c) of the Act, that all of the exemptions contained in the Alberta securities laws do not apply to the Respondents until April 11, 2009;
- under paragraphs 198(1)(d) and (e) of the Act, that that Cameron resign all positions that he holds as a director or officer of any issuer and that he be prohibited from becoming or acting as such until April 11, 2009, and
- under subsections 202(1) and (2) of the Act, that the Respondents pay to the Commission costs of the investigation and this hearing in the amount of \$3,200.00.

[32] These proceedings are now concluded.

November 14, 2006

**For the Commission:**

"Original Signed By"  
James A. Millard, QC, Member

"Original Signed By"  
Neil W. Murphy, Member