

# 2004 BCSECCOM 513

## Notice of Hearing

**Edward Andrew Durante aka Ed Simmons, Gillian Hobson,  
Berkshire Capital Partners, Inc., Commonwealth Associates, Ltd.,  
Dottenhoff Financial, Ltd., and Galton Scott & Golett Inc.**

### **Section 161 of the *Securities Act*, RSBC 1996, c. 418**

- ¶ 1 A hearing will be held to give Edward Andrew Durante aka Ed Simmons (Durante), Gillian Hobson (Hobson), Berkshire Capital Partners, Inc. (Berkshire), Commonwealth Associates, Ltd. (Commonwealth), Dottenhoff Financial, Ltd. (Dottenhoff), and Galton Scott & Golett Inc. (Galton) (together, the Respondents) an opportunity to be heard, before the British Columbia Securities Commission (the Commission) determines whether it is in the public interest to make orders under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 The Commission will be asked to consider the following facts and allegations before making its determinations:

#### **The Respondents**

1. Durante is a stock promoter and former registered securities professional who formerly resided in New York State. Durante used the alias Ed Simmons. He is currently incarcerated in Pennsylvania, USA.
2. Hobson was operations manager and a member of the board of directors of Exchange Bank and Trust, Inc. (EBT). EBT is a private international bank incorporated in the Republic of Nauru that carries on business in the Federation of St. Kitts and Nevis (St. Kitts). In 2000 she was a resident of St. Kitts.
3. Berkshire, Commonwealth, Dottenhoff and Galton (the Offshore Entities) are companies incorporated in the Island of Nevis, St. Kitts. Durante incorporated the Offshore Entities and hired Hobson as his nominee for them. Hobson was listed as sole incorporator on their articles of incorporation, and was their sole director and shareholder.
4. Durante also caused Hobson to open securities trading accounts in the names of the Offshore Entities at Union Securities Ltd. (Union), an investment dealer based in Vancouver, British Columbia. Durante had trading authority over these accounts, which he exercised through Trevor Grant Koenig (Koenig), Durante and the Offshore Entities' stockbroker at Union.

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### **Manipulation of WAMEX Holdings, Inc.**

5. Wamex Holdings, Inc. (WAMX) is a Delaware corporation based in New York City. WAMX's common stock was quoted on the Over-the-Counter Bulletin Board securities quotation system in the United States (the OTC-BB) at all material times.
6. Durante entered into a scheme to manipulate the public market for WAMX common stock by causing the Offshore Entities to engage in a series of prearranged market transactions designed to create the false appearance of increasing demand for WAMX stock.
7. WAMX improperly issued 19.5 million WAMX shares to an associate of Durante's. The associate then transferred approximately 9.5 million of those shares to accounts controlled by Durante, including the Dottenhoff, Commonwealth and Berkshire accounts held at Union.
8. Durante caused the Offshore Entities to trade WAMX stock with designated market makers at prices that allowed the market makers to realize a guaranteed profit. In response, the market makers increased the bid quotations for WAMX stock on the OTC-BB, and purchased WAMX stock at increasingly high levels.
9. Durante also caused the Offshore Entities to deceive the public market by selling WAMX stock to certain individuals at prevailing market prices, which were reported to the market, and then sending free blocks of stock to those individuals so as to conceal a discount.
10. These activities artificially increased both the trading volume and the price of WAMX stock on the OTC-BB.
11. In addition to the market manipulation activities of Durante and the Offshore Entities, WAMX issued false and misleading press releases that artificially inflated the price of WAMX stock.
12. Between January and June 2000, Durante received the following profits from

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selling WAMX stock at the inflated prices in the Dottenhoff, Commonwealth and Berkshire accounts at Union:

Respondent	Profits
Dottenhoff	US\$14,404,516.51
Commonwealth	US\$10,638,545.24
Berkshire	US\$7,509,588.82
<b>TOTAL:</b>	<b>US\$32,552,650.57</b>

13. Between January and March 2000, Durante, through Hobson, caused Dottenhoff, Berkshire and Commonwealth to transfer US\$14.7 million of the trading profits from Union to an account at the Bank of Montreal at 595 Burrard Street, Vancouver, British Columbia in the name of EBT (the EBT Account).

14. The following chart summarizes the wire transfers:

Date	Amount	Sent By
01/31/00	\$600,000	Dottenhoff
02/09/00	\$500,000	Dottenhoff
02/16/00	\$1,550,000	Dottenhoff
02/25/00	\$2,000,000	Dottenhoff
02/28/00	\$1,850,000	Dottenhoff
02/29/00	\$3,250,000	Dottenhoff
03/03/00	\$200,000	Commonwealth
03/08/00	\$1,250,000	Commonwealth
03/20/00	\$2,000,000	Berkshire
03/27/00	\$500,000	Berkshire
03/30/00	\$1,000,000	Berkshire
<b>Total:</b>	<b>\$14,700,000</b>	

15. The United States Securities and Exchange Commission (the SEC) halted the WAMX scheme by suspending trading in WAMX stock on June 14, 2000.

16. On October 11, 2001, the SEC filed a complaint (the WAMX Complaint) against WAMX, Durante, the Offshore Entities and others in the United States District Court for the Southern District of New York (the US Court) which alleged that Durante and the Offshore Entities had violated various provisions of United States federal securities laws by committing the acts described above.

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17. The SEC sought an order requiring Durante and the Offshore Entities to disgorge their profits and pay pre-judgment interest, and requiring EBT, as a relief defendant, to disgorge the funds it received from Durante and the Offshore Entities.
18. Durante, the Offshore Entities and EBT failed to file an Answer or otherwise respond to the WAMX Complaint.
19. On October 10, 2002, the US Court granted a partial default judgment (the WAMX Judgment) against Durante, the Offshore Entities and EBT in which it ordered them to disgorge funds and pay pre-judgment interest as follows:
  - (a) as against Durante, jointly and severally with Berkshire, Dottenhoff, Commonwealth and others, US\$39,880,680.86 representing disgorgement of US\$33,783,565.26 and pre-judgment interest in the amount of US\$6,097,115.60,
  - (b) as against Dottenhoff, US\$17,004,182.99 representing disgorgement of US\$14,404,516.51 and pre-judgment interest in the amount of US\$2,599,666.48,
  - (c) as against Commonwealth, US\$12,558,545.08 representing disgorgement of US\$10,638,545.24 and pre-judgment interest in the amount of \$1,919,999.84,
  - (d) as against Berkshire, US\$8,864,887.80 representing disgorgement of US\$7,509,588.82 and pre-judgment interest in the amount of US\$1,355,298.98, and
  - (e) as against EBT, US\$17,352,994.10 representing disgorgement of US\$14,700,000.00 and pre-judgment interest in the amount of US\$2,652,994.10.
20. The effect at US law of the WAMX Judgment is that the Respondents have admitted the allegations of fact in the WAMX Complaint, and are barred from contesting them.

### **Manipulation of Absolutefuture.com**

21. Absolutefuture.com (AFTI) is a Nevada corporation based in Bellevue, Washington. AFTI's common stock was quoted on the OTC-BB at all material times.

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22. AFTI improperly issued 4.1 million shares to Durante and other entities as part of a scheme to manipulate the share price of AFTI. The scheme included selling AFTI shares to market makers at secret discounts. The purchases and sales created the artificial impression of rising volume and an active market for AFTI shares which inflated prices. Durante and Berkshire generated profits by selling AFTI stock to innocent members of the public at inflated prices.
23. Between December 1999 and February 2000, 1,680,000 of the improperly issued shares were transferred into Berkshire's account at Union. Between January and March 2000, Durante used the Berkshire account to sell the shares for a profit. During the same period, Durante also purchased from the public and sold an additional 228,200 AFTI shares through the account as part of the manipulative scheme.
24. AFTI also issued false press releases to support Durante's trading activities.
25. By March 7, 2000, the Berkshire account accumulated a profit of approximately US\$1,409,731 from Durante's AFTI trading. On that date, with Hobson's assistance, Durante and Berkshire wired US\$300,000 from the Berkshire account to the EBT Account. On March 14, 2000, Durante and Berkshire wired a further US\$1,800,000 from the Berkshire account to the EBT Account, of which US\$1,315,227 is traceable to AFTI profits. Accordingly, Durante and Berkshire wired a total of \$1,615,227 in profits from AFTI trading from the Berkshire account to the EBT Account.
26. On October 11, 2001 the SEC filed a complaint (the AFTI Complaint) against AFTI, the Respondents and certain other defendants in the US Court alleging that Durante and the Offshore Entities had violated various provisions of United States federal securities laws. The SEC sought disgorgement of their profits and an award of pre-judgment interest, as well as an order that EBT should disgorge the funds it received from Durante and the Offshore Entities.
27. Durante, the Offshore Entities and EBT failed to respond to the AFTI Complaint.
28. On January 22, 2003, the US Court granted judgment against Durante, the Offshore Entities and AFTI, finding them liable for various US federal securities laws violations and repayment of the proceeds of their violations. The court ordered Durante and Berkshire to pay US\$1,969,134.30, representing disgorgement of US\$1,615,227.00 and pre-judgment interest of US\$353,907.30.

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29. On February 10, 2003, the US Court granted judgment against EBT. The court ordered EBT to pay US\$1,978,882.49, representing disgorgement of US\$1,615,227.00 and pre-judgment interest of US\$363,655.49.
30. The effect at US law of the January 22, 2003 and February 10, 2003 US Court judgments (together, the AFTI Judgments) is that the liability of Durante, Berkshire and EBT is established and the allegations set out in the AFTI Complaint are taken as admitted.

### **Manipulation of U.N. Dollars Corp.**

31. U.N. Dollars Corp. (UNDR) is a Colorado corporation based in Jacksonville, Florida. UNDR's common stock was quoted on the OTC-BB at all material times.
32. In September 1999, Durante entered into a scheme with the principals of UNDR to stimulate the public market for common stock of UNDR and increase UNDR's daily trading volume and share price.
33. Durante directed the principals of UNDR to issue 10 million shares of UNDR stock to entities he controlled, including Berkshire, Dottenhoff and Galton (the UNDR Respondents). Durante subsequently had trading restrictions removed from the stock so it could be sold on the OTC-BB. He then transferred the shares to accounts in the name of the UNDR Respondents at Union.
34. Durante then caused the UNDR Respondents and others to engage in a series of prearranged market transactions designed to create the false appearance of increasing demand for UNDR stock. Durante caused the UNDR Respondents to buy and sell UNDR stock to and from each other at increasingly higher prices. These activities artificially increased both the trading volume and the price of UNDR stock.
35. Durante also directed the principals of UNDR to issue false press releases to support his trading activities.
36. Between January and March 2000, the UNDR Respondents received the

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following profits in their Union accounts from selling UNDR stock at the inflated prices:

<b>Respondent</b>	<b>Profits</b>
Berkshire	US\$1,039,801.38
Galton	US\$ 443,477.50
Dottenhoff	US\$ 454,419.50
<b>TOTAL:</b>	<b>US\$1,937,698.38</b>

37. In February and March 2000, Durante, through Hobson, caused Berkshire to wire US\$1,039,801.38 of the profits from Berkshire's account at Union to the EBT Account.
38. The SEC halted the UNDR scheme by suspending trading in UNDR stock on March 13, 2000.
39. On October 11, 2001, the SEC filed a complaint against UNDR in the US Court (the UNDR Complaint) alleging in part that Durante and the Offshore Entities had violated various provisions of United States federal securities laws. The SEC sought disgorgement of profits and an award of pre-judgment interest from Durante and the Offshore Entities, and an order that EBT should disgorge the funds that it received from Durante and the Offshore Entities.
40. Durante, the Offshore Entities and EBT failed to respond to the UNDR Complaint.
41. On January 8, 2003, the US Court granted default judgment (the UNDR Judgment) against Durante, the Offshore Entities and EBT in which it ordered them to disgorge profits and pay pre-judgment interest as follows:
  - (a) as against Durante and the Offshore Entities, US\$2,350,566.99 representing disgorgement of US\$1,937,698.38 plus pre-judgment interest of US\$412,868.61, and
  - (b) as against EBT, US\$1,261,353.60 representing disgorgement of US\$1,039,801.38 plus pre-judgment interest of US\$221,552.22.
42. The effect at US law of the UNDR Judgment is that Durante and the Offshore Entities' liability is established and the allegations set out in the UNDR Complaint are taken as admitted.

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### **Criminal Proceedings Against Durante**

43. On December 7, 2001, in a criminal proceeding in the US Court, Durante pleaded guilty to conspiracy to commit securities fraud and wire fraud in connection with the manipulation of WAMX, AFTI, UNDR and other companies. He also pleaded guilty to related charges of money laundering and making false statements to federal law enforcement officers.
44. On September 26, 2003, the US Court sentenced Durante to 121 months imprisonment, 3 years probation, and restitution.

### **Contraventions of the Act**

45. Durante and the Offshore Entities directly or indirectly engaged in or participated in a series of transactions relating to trades in or acquisitions of securities of WAMX, AFTI and UNDR (the Issuers) when they knew, or ought reasonably to have known, that the transactions:
- (a) resulted in or contributed to a misleading appearance of trading activity in or an artificial price for, the securities of the Issuers, and
  - (b) perpetrated a fraud on persons who bought or sold shares of the Issuers in connection with trading in or acquiring securities of the Issuers in British Columbia.
46. Accordingly, Durante and the Offshore Entities contravened sections 57(a) and (c) of the Act.

### **Public Interest**

47. Hobson acted contrary to the public interest by acting as Durante's nominee for the purpose of:
- (a) organizing the Offshore Entities,
  - (b) opening securities accounts in the name of the Offshore Entities at Union and effecting trades and transfers of securities in them, and
  - (c) wiring trading profits from the Union accounts to the EBT Account.

- ¶ 3 The Respondents may be represented by counsel and may make representations and lead evidence at the Hearing. The Respondents are requested to advise the Commission of their intention to attend the Hearing by contacting the Secretary to the Commission at P.O. Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC, V7Y 1L2, by telephone at (604) 899-6500, or by email at commsec@bcsc.bc.ca.



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- ¶ 4 The Respondents or their counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on Wednesday, September 8, 2004 at 10:00 am, if they wish to appear at the Hearing.
- ¶ 5 Determinations may be made in this matter if the Respondents, or their counsel, do not appear at the Hearing.
- ¶ 6 August 17, 2004  
“Stephen J. Wilson”
- ¶ 7 Stephen J. Wilson  
Executive Director