

2012 BCSECCOM 306

Temporary Order and Notice of Hearing

**Thalbinder Singh Poonian, Shailu Sharon Poonian,
Robert Joseph Leyk, Manjit Singh Sihota and Perminder Sihota**

(collectively, the Respondents)

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

- ¶ 1 The Commission will hold a hearing (Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against the Respondents under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (Act), based on the following facts:

Background

1. OSE Corp. (OSE) was an Ontario company listed on the TSX Venture Exchange (TSX-V).
2. Thalbinder Singh Poonian (Thal Poonian) is currently a director and officer of two TSX-V listed issuers: Great Pacific International Inc. and Logan Copper Inc. The head offices of these two issuers are located at the same premises in Delta, British Columbia, where OSE had its head office.
3. Shailu Sharon Poonian (Sharon Poonian) is Thal Poonian's spouse.
4. Manjit Singh Sihota became a director of OSE in June 2007 and also served as its president and chief executive officer from February 2008 to June 2011, when he left OSE. Manjit Sihota is currently a director of Logan Copper Inc.
5. Perminder Sihota is Manjit Sihota's spouse, and Thal Poonian's cousin.
6. Robert Joseph Leyk was a director of OSE from June 2007 to February 2011.
7. Phoenix Credit Risk Management Consulting Inc. (Phoenix) is based in Richmond Hill, Ontario. It provides debt management services to individuals and helps them access funds in their RRSPs or locked-in retirement accounts.

Overview

8. The Respondents and certain relatives, friends and associates of Thal and Sharon Poonian (collectively, the Poonian Group) acquired a dominant share position in OSE by purchasing its shares at \$0.10-\$0.11 in two private placements.

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9. By trading through brokerage accounts held by them (the Poonian Group Accounts), the Poonian Group manipulated OSE's share price to a high near \$2.00 per share, and made approximately \$7 million by selling shares to unsuspecting Phoenix clients.
10. At the conclusion of the manipulation, OSE shares traded at \$0.08 per share.

Market manipulation

Accumulation of dominant share position in OSE

11. Throughout 2006, there were only 74 trades in OSE shares on the TSX-V, with a total trading volume of only 30,391 shares.
12. From January 5, 2007 to December 19, 2007, there were only 75 trades in OSE shares, with a total trading volume of only 174,161 shares.
13. On September 10, 2007, OSE made a private placement of 1.5 million units at a price of \$0.11 per unit, with each unit consisting of one share and one share purchase warrant. OSE issued the units to six members of the Poonian Group. This resulted in the Poonian Group holding approximately 56% of OSE's issued and outstanding shares.
14. On December 17, 2007, OSE made another private placement, this time comprising of 10 million units at a price of \$0.10 per unit. OSE issued 8,800,000 units to sixteen members of the Poonian Group, resulting in the Poonian Group holding approximately 88% of OSE's issued and outstanding shares.
15. The securities issued under the private placements were subject to a hold period of four months.

Manipulation of OSE share price prior to expiry of first hold period

16. Prior to December 20, 2007, OSE shares traded only sporadically on the TSX-V. The last board lot trade was on November 27, 2007 at \$0.29 per share.
17. During five trading days between December 20, 2007 and January 2, 2008, the Poonian Group Accounts significantly increased OSE's share price by:
 - (a) purchasing 64,500 OSE shares on the TSX-V, which represented 81% of the total trading volume;
 - (b) conducting seven share purchases at prices that were each higher than the price of the immediately preceding trade (uptick trades); and
 - (c) on three of the five trading days, purchasing shares during the last 30 minutes of the trading day in trades that resulted in a higher closing price

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18. As a result of these transactions, on January 2, 2008, OSE's share price closed at \$1.00 per share.
19. On January 9, 2008, Poonian Group Accounts purchased 23,500 OSE shares and conducted twelve uptick trades during the last hour of trading, which increased the closing price to \$1.50 per share from the previous day's \$1.00 per share closing price.

Domination of market for OSE shares

20. On January 10, 2008, the 1.5 million OSE shares issued to the Poonian Group under the first private placement became free trading, followed on April 18, 2008 by the shares issued under the second private placement.
21. Throughout 2008, the Poonian Group maintained OSE's share price above \$1.50 per share by dominating the buying and selling of OSE shares. The share price closed at \$2.00 on January 31, 2008 and consistently closed near \$2.00 from February to September 2008. From October to December 2008, the share price closed between \$1.98 and \$1.50.
22. Between January 10, 2008 and March 31, 2009, The Poonian Group Accounts:
 - (a) dominated the market for OSE shares by:
 - (i) buying 12,624,300 shares on the TSX-V for a total of \$17,685,309, which represented 65% of the total purchase volume and 64% of the total value of all shares purchased;
 - (ii) selling 17,229,200 shares on the TSX-V for a total of \$24,862,615, which represented 89% of the total selling volume and 90% of the total value of all shares sold;
 - (iii) trading more than 10.4 million shares in transactions where Poonian Group Accounts were both buyer and seller; and
 - (b) conducted approximately 200 uptick trades.
23. The Poonian Group Accounts obtained proceeds of \$7,177,305 by selling 4,604,900 more OSE shares on the TSX-V than they purchased.

Sale of shares to Phoenix clients

24. Thal Poonian made an arrangement with Phoenix to pay commissions for the referral of Phoenix clients to buy OSE shares. The Respondents caused those commissions to be paid to companies controlled by an officer and director of Phoenix.

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25. Between January 7, 2008 and March 31, 2009, 216 Phoenix clients purchased 4,651,800 OSE shares at an average price of \$1.80 per share, for a total cost to them of \$8,357,574. They purchased almost all of their OSE shares from Poonian Group Accounts.
26. OSE's share price declined from January to March 2009, and closed at \$0.08 per share on March 31, 2009.
27. As at March 31, 2009, the Phoenix clients suffered losses of \$7,102,902 based on their net holdings of OSE shares and the closing share price on that date.

Breach

28. The Respondents engaged in or participated in conduct relating to OSE shares when they knew, or reasonably should have known, that the conduct resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, OSE shares, contrary to section 57 of the Act.

Public interest

- ¶ 2 It is in the public interest that the Commission issue orders under sections 161 and 162 of the Act.

Temporary Order

- ¶ 3 The Executive Director, considering that the length of time to hold a hearing under section 161(1) of the Act could be prejudicial to the public interest, orders under section 161(1)(b) and 161(1)(d) of the Act that (the Temporary Order):
 - (a) each Respondent cease trading in and is prohibited from purchasing securities, except that each Respondent may trade and purchase securities in accounts in his or her own name at one registered dealer if he or she first gives the dealer a copy of this Temporary Order and provides the dealer's name to the Executive Director;
 - (b) each Respondent resign any position he or she holds, and is prohibited from becoming or acting, as a director or officer of any issuer; other than an issuer all the securities of which are owned by him or her; and
 - (c) each Respondent is prohibited from engaging in investor relations activities
for a period expiring on August 17, 2012.

- ¶ 4 A hearing will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia on August 14, 2012, at 10:00 am, at which the Executive Director will ask the Commission to extend the Temporary Order until a decision is rendered.

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- ¶ 5 The Respondents may be represented by counsel at the hearing and may make representations and lead evidence. The Respondents are requested to advise the Commission of their intention to attend by contacting the Secretary to the Commission at PO Box 10142, Pacific Centre, 12th Floor, 701 West Georgia Street, Vancouver, BC, V7Y 1L2, phone: (604) 899-6500; email: commsec@bcsc.bc.ca.
- ¶ 6 If the Respondents or their counsel do not appear at the hearing, the Executive Director may apply to the Commission to make all or part of the Temporary Orders permanent, and the Commission may make other determinations contrary to the Respondents' interests in their absence.
- ¶ 7 August 2, 2012.

Paul C. Bourque

- ¶ 8 Paul C. Bourque, Q.C.
Executive Director