

REPLY TO:
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By Regular Mail

January 25, 2024

Dear Mr. Bahadoorsingh:

Amar Bahadoorsingh
Reciprocal Order Application
Our File No: 54938

I am writing this letter on behalf of the Executive Director of the British Columbia Securities Commission (**the Executive Director**).

This letter notifies you and the British Columbia Securities Commission (**the Commission**) that the Executive Director is applying for orders against you under sections 161(6)(b) and 161(1) of the *Securities Act*, RSBC 1996, c. 418 (**the Act**). The Executive Director is not seeking a financial penalty.

The Executive Director is making this application based on the following decisions:

- Final Judgment as Defendant Amar Bahadoorsingh, *Securities and Exchange Commission v. Carrillo*, No. 21-cv-11272 (D. Mass. Jun. 30, 2022), No. 62 (**Carillo Final Judgment**) where the United States District Court for the District of Massachusetts (**the US Court**) found that you contravened sections 5(a), 5(c), 17(a)(1), and 17(a)(3) of the United States *Securities Act of 1933* (**US Securities Act**), sections 10(b) and 13(d) of the United States *Securities Exchange Act of 1934* (**US Exchange Act**), and United States Securities Commission (**SEC**) Rules 10b-5(a) and 10b-5(c); and
- Final Judgment Pursuant to Fed. R. Civ. P. 54(b) as to Amar Bahadoorsingh, *Securities and Exchange Commission v. Carnovale*, No. 21-cv-11938 (D. Mass. Mar. 31, 2023), No. 34 (**Carnovale Final Judgment**) where, in connection with separate misconduct, the US Court found that you contravened sections 5(a), 5(c), 17(a)(1), 17(a)(3), and 17(a)(3) of the US Securities Act, sections 10(b) of the US Exchange Act SEC, and Rules 10b-5(a), 10b-5(b), and 10b-5(c).

BACKGROUND**The Default Judgments**
Carillo Proceeding

1. On August 4, 2021, the SEC filed a complaint in the US Court initiating a civil enforcement proceeding against you and three co-defendants, Luis Jimenez Carillo (**Carillo**), Justin Roger Wall (**Wall**), and Jamie Samuel Wilson (**Wilson**) (**the Carillo Proceeding**). The complaint alleged that you and your co-defendants participated in a scheme to defraud investors by selling securities of at least one publicly traded company without making required disclosures or complying with the limitations on sales of stock by company affiliates.

Complaint, *Carrillo*, No. 21-cv-11272 (D. Mass. Aug. 4, 2021), No. 1 (**Carillo Complaint**), para. 3.

2. On April 7, 2022, the SEC filed a motion for entry of default against you stating that you had not responded to the *Carillo* Complaint and you indicated to the SEC that you did not intend to respond.

Plaintiff's Motion for Entry of Default as to Defendant Amar Bahadoorsingh, *Carrillo*, No. 21-cv-11272 (D. Mass. Apr. 7, 2022), No. 45 (***Carillo* SEC Default Motion**).

3. On April 11, 2022, the court clerk entered a notice of default against you.

Notice of Default, *Carrillo*, No. 21-cv-11272 (D. Mass. Apr. 11, 2022), No. 50 (***Carillo* Clerk's Entry of Default**).

4. On May 11, 2022, the SEC filed a motion for default judgment against you supported by a memorandum and statutory declaration of an SEC accountant. You did not respond to the motion.

Plaintiff's Motion for Default Judgment as to Defendant Amar Bahadoorsingh, *Carrillo*, No. 21-cv-11272 (D. Mass. May 11, 2022), No. 56 (***Carillo* SEC Default Judgment Motion**)
Plaintiff's Memorandum in Support of Its Motion for Default Judgment Against Defendant Amar Bahadoorsingh, *Carrillo*, No. 21-cv-11272 (D. Mass. May 11, 2022), No. 57 (***Carillo* SEC Memo**)
Docket, *Carrillo*, No. 21-cv-11272 (D. Mass. Retrieved November 7, 2023).

5. On June 20, 2022, the US Court granted the SEC's motion for default judgment and found that you had violated the following US federal securities laws:

- (a) sections 5(a) and 5(c) of the US Securities Act, which prohibit unregistered offerings of securities;
- (b) sections 17(a)(1) and 17(a)(3) of the US Securities Act, which prohibit fraud in the offer or sale of securities;
- (c) section 10(b) of the US Exchange Act and SEC Rules 10b-5(a) and 10b-5(c), which prohibit fraud in connection with the purchase or sale of securities; and
- (d) section 13(d) of the US Exchange Act, which requires the beneficial owners of more than 5% of a class of certain securities of to file a disclosure statement with the SEC.

Carrillo Final Judgment, p. 1.

6. In the *Carillo* Final Judgment, the US Court made the following orders against you:

- (a) You are permanently restrained and enjoined from violating sections 5 and 17(a) of the US Securities Act, sections 10(b) and 13(d) of the US Exchange Act, and SEC Rule 10b-5.
- (b) You are permanently barred from participating in an offering of a penny stock. A penny stock is any equity security that has a price of less than US\$ 5.00 subject to certain exceptions in SEC regulations.
- (c) You are liable for disgorgement of US\$572,002 representing net profits gained as a result of the conduct alleged in the *Carillo* Complaint, together with prejudgment interest US\$149,299.
- (d) You are liable for a civil penalty in the amount of \$207,183.

Carrillo Final Judgment, p. 2-5.

***Carnovale* Proceeding**

7. On December 2, 2021, the SEC filed another complaint in the US Court initiating a separate civil enforcement proceeding against you and Vincenzo Carnovale (*Carnovale*) (the *Carnovale* Proceeding). Distinct from the allegations in the *Carillo* Complaint, the second complaint alleged that you and Carnovale participated schemes to defraud investors by:

- (a) concealing control of securities of publicly traded companies;
- (b) misleading investors, brokers, and transfer agents about the provenance of these securities and your beneficial ownership of them;
- (c) deceiving investors by causing the companies to make materially false and misleading statements in their publicly filed financial statements and reports; and
- (d) hiring promoters to generate demand for the companies' shares and selling those shares to unwitting retail investors during the orchestrated promotions.

Complaint, *Carnovale*, No. 21-cv-11938 (D. Mass. Dec. 2, 2022), No. 1 (***Carnovale Complaint***), para. 2.

8. On July 18, 2022, the SEC filed a motion for entry of default against you stating that you had not responded to the *Carnovale* Complaint and you indicated to the SEC that you did not intend to respond.

Plaintiff's Motion for Entry of Default as to Defendant Amar Bahadoorsingh, *Carnovale*, No. 21-cv-11938 (D. Mass. Jul. 18, 2022), No. 12 (***Carnovale SEC Default Motion***).

9. On July 18, 2022, the court clerk entered a notice of default against you.

Notice of Default, *Carnovale*, No. 21-cv-11938 (D. Mass. Jul. 18, 2022), No. 13 (***Carnovale Clerk's Entry of Default***).

10. On August 13, 2022, the SEC filed a motion for default judgment against you supported by a memorandum and statutory declaration of an SEC accountant. You did respond to the motion.

Plaintiff's Motion for Default Judgment as to Defendant Amar Bahadoorsingh, *Carnovale*, No. 21-cv-11938 (D. Mass. Aug. 13, 2022), No. 18 (***Carnovale SEC Default Judgment Motion***)

Plaintiff's Memorandum in Support of Its Motion for Default Judgment Against Defendant Amar Bahadoorsingh, No. 21-cv-11938 (D. Mass. Aug. 13, 2022), No. 19 (***Carnovale SEC Memo***)

Declaration of Trevor T. Donelan, No. 21-cv-11938 (D. Mass. Aug. 13, 2022), No. 20 (***Carnovale SEC Declaration***)
Carnovale Final Judgment, p. 1.

11. On March 31, 2023, the US Court granted the SEC's motion for default judgment and found that you had violated the following US federal securities laws:

- (a) sections 5(a) and 5(c) of the US Securities Act, which prohibit unregistered offerings of securities;

- (b) sections 17(a)(1) and 17(a)(3) of the US Securities Act, which prohibit fraud in the offer or sale of securities;
- (c) section 17(a)(2) of the US Securities Act, which prohibits obtaining money or property by misrepresentations in connection with the offer or sale of securities; and
- (d) section 10(b) of the US Exchange Act and SEC Rules 10b-5(a), 10b-5(b), and 10b-5(c), which prohibit fraud in connection with the purchase or sale of securities.

Carnovale Final Judgment, pp. 1-2.

12. In the *Carnovale* Final Judgment, the US Court made the following orders against you:

- (a) You are permanently restrained and enjoined from violating sections 5 and 17(a) of the US Securities Act, section 10(b) of the US Exchange Act and, SEC Rule 10b-5.
- (b) You are permanently barred from participating in an offering of a penny stock.
- (c) You are permanently restrained and enjoined from directly or indirectly participating in the issuance, purchase, offer, or sale of any security, provided that such injunction shall not prevent you from purchasing or selling securities listed on a US national securities exchange for you own personal account.
- (d) You are liable for disgorgement of US\$231,020 representing net profits gained as a result of the conduct alleged in the *Carnovale* Complaint, together with prejudgment interest US\$28,416.
- (e) You are liable for a civil penalty in the amount of US\$207,183.

Carnovale Final Judgment, pp. 2-5.

Law Applicable to Default Judgments

13. As a consequence of a default judgment, a defendant is deemed to have admitted the allegations in the statement of claim or complaint.¹ It is well-established under US and Canadian law that a default judgment conclusively establishes the liability of a defendant and, when faced with a defendant's default, a court is required to accept as true all of the facts alleged by the plaintiff.² In *Durante (Re)*, a Commission panel stated:

Under US law, a default judgment is an admission of the facts alleged in the complaint.

.....

Under US law, the effect of the default judgments is that [the respondent] is taken to have admitted the allegations in the SEC complaints.

Durante (Re), 2004 BCSECCOM 634, paras. 9, 26.

14. In *Re Sharp*, 2023 BCSECCOM 73, and in *Re Skerry*, 2021 BCSECCOM 30, Commission panels made orders against the respective respondents after the Executive Director made applications pursuant to section 161(1) and 161(6)(b) of the Act. The Commission relied on US default judgments in SEC proceedings against the respondents in both of those matters.

¹ *E. Sands and Associates Inc. v. Dextras Engineering & Construction Ltd.*, 2009 BCSC 42 at para 23 (“[T]here is an abundance of case law that supports the plaintiff’s position that when default judgment is taken the allegations in the statement of claim are deemed admitted and cannot be challenged at the stage of assessment of damages”).

² *Id.*; *Irizarry-Vazquez v. La Misericordia*, No. 13-1388 (PG), 2016 U.S. Dist. LEXIS 129200 at *6 (D.P.R. Sep. 21, 2016) (“[T]here is no question that, default having been entered, each of [plaintiff’s] allegations of fact must be taken as true and each of its [] claims must be considered established as a matter of law.”) (quoting *Brockton Savings Bank v. Peat, Marwick, Mitchell & Co.*, 771 F.2d 5, 13 (1st Cir. 1985)); *SEC v. DFRF Enterprises LLC*, 384 F. Supp. 3d 129, 131 (D. Mass. 2019) (taking allegations from the complaint as true and granting default judgment).

15. Similar to *Sharp and Skerry*, the US Court granted the SEC's motions for default judgment against you in the *Carillo* and *Carnovale* Proceedings and determined that you violated numerous provisions of US federal securities laws.

Carrillo Final Judgment, p. 1.
Carnovale Final Judgment, pp. 1-2.

Summary of Findings

16. Given the default judgments against you, the Commission can accept and rely upon the allegations against you in the *Carillo* and *Carnovale* Complaints as findings of fact.

Carillo Proceeding

17. With respect to the *Carillo* Proceeding, the findings of fact relating to your misconduct are contained in the *Carillo* Complaint and *Carillo* Final Judgment and recited in the *Carillo* SEC Memo:

- (a) You are a resident of Vancouver, British Columbia.

Carrillo Complaint, para. 16.

- (b) You, Carillo, Wall, and Wilson participated in a fraudulent scheme to gain control over millions of shares of Aureus, Inc. (Aureus) stock and sell those shares without making required disclosures or complying with limitations on sales of stock. You earned substantial profits from participating in the scheme and shared those profits with Carillo.

Carrillo Complaint, paras. 1-3.

- (c) Between April and August 2016, you, Carillo, Wall, and Wilson acquired approximately 25 million shares of Aureus through seven foreign nominee entities (the Aureus Nominees) that you and your co-defendants controlled.

Carrillo Complaint, paras. 38-46.

- (d) Of these shares, 3,600,000 were purportedly purchased by a Hong Kong entity controlled by you on or around August 3, 2016. The agreements purporting to document the sale of the shares to the entity controlled by you were falsified.

Carrillo Complaint, paras. 41-42.

- (e) Each of the Aureus Nominees held less than 5% of Aureus' outstanding shares. However, across all Aureus Nominees, you and your co-defendants held 20% of Aureus outstanding shares and approximately 81% of its shares available for trading.

Carrillo Complaint, para. 46.

- (f) You, Carillo, Wall, and Wilson, acting in concert, controlled the Aureus Nominees. As such, you, Carillo, Wall, and Wilson were the beneficial owners of more than 5% of Aureus' publicly traded stock, you and your co-defendants were required to disclose that interest under section 13(d) of the US Exchange Act. You and your co-defendants failed to make the required disclosures.

Carrillo Complaint, para. 49.

- (g) You, Carrillo, Wall, and Wilson, used the Aureus Nominees to create the false appearance that none of Aureus Nominees had to disclose their beneficial ownership interest pursuant to section 13(d) of the US Exchange Act.

Carrillo Complaint, para. 49.

- (h) You and your co-defendants, by virtue of your group's control over a significant percentage of Aureus' outstanding shares and its shares available for trading, were affiliates of Aureus such that you were required to register Aureus stock sales with the SEC or abide by sale limitations in SEC regulations.

Carrillo Complaint, paras. 25-28, 59.

- (i) Between approximately July 28, 2016, and August 17, 2016, you, Carrillo, Wall, and Wilson orchestrated the transfer of almost 21,000,00 of your Aureus shares from the Aureus Nominees into brokerage accounts where the shares could be sold. The Aureus Nominee that you controlled deposited its shares with a US broker (Broker E), and you, through that entity, made false statements to the broker in connection with the deposit.

Carrillo Complaint, paras. 51-52.

- (j) Carrillo orchestrated a promotional campaign to promote Aureus stock to investors by agreeing to pay the operator of a boiler room to call potential investors and use high-pressure sales tactics to encourage them to buy Aureus stock. Carrillo knew that the boiler room would promote the stock without revealing that there were paid for by a member of a group controlling most of the Aureus' stock available for trading. These efforts led to a significant increase in the share price and volume of Aureus' stock traded in August 2016. The share price plummeted when the promotional activities ended. While these promotions were ongoing, you acted in concert with at least Carrillo to direct sales of Aureus stock.

Carrillo Complaint, paras. 54, 58.

Carrillo SEC Memo, p. 1.

- (k) In August 2016, the Aureus Nominee that you controlled sold about 3.4 million Aureus shares for proceeds of about US\$2.2 million. From these proceeds, Broker E transferred at least US\$922,000 to entities and individuals associated with you and Carrillo, including US\$560,002 to a US company controlled by you and US\$12,000 to your personal account.

Carrillo Complaint, paras. 55, 57-58, 62.

- (l) At the time of the sales of Aureus stock by you and Carrillo, no registration statement was on file with the SEC or in effect as to the transactions, and you failed to comply with sale limitations in SEC regulations.

Carrillo Complaint, para. 60.

- (m) In addition to coordinated actions relating to Aureus, you and Carrillo worked together on additional deals with a similar structure in that you and your partners together controlled 5% or more of a company's shares but worked through nominee entities to conceal your ownership interest and sell those shares through brokerage accounts that obscured your identities.

Carrillo Complaint, para. 50.

- (n) You violated sections 17(a)(1) and 17(a)(3) of the US Securities Act, section 10(b) of the US Exchange Act, and SEC Rules 10b-5(a) and 10b-5(c) by engaging in a scheme to defraud investors, which included the following deceptive devices and acts, and intentional misrepresentations of material fact:
- i. You and your co-defendants controlled Aureus stock and sold your group's shares in the US markets simultaneously with promotions designed to increase demand for the stock that did not disclose your group's control over Aureus.
 - ii. You used a nominee corporation to hide your ownership of Aureus shares, which, in conjunction with your co-defendants use of nominee companies, preventing the market from discovering that Aureus' stock was controlled by a single group.
 - iii. You used false documents and statements to facilitate the deposit of Aureus shares with brokers to effectuate the scheme.

Carrillo Complaint, paras. 38-49, 51-53, 59-61, 111-125.
Carillo SEC Memo, pp. 6-11.
Carillo Final Judgment, p. 1.

- (o) Your repeated pattern of obscuring control of the companies whose stock you worked with others to sell, utilizing a nominee entity to conceal your ownership and hold stock just below the 5% threshold, coordinating your stock sales with promotional activities that you knew would not disclose you involvement, and your sharing of profits with Carillo demonstrate that you understood your conduct was illegal.

Carrillo Complaint, paras. 41, 46-47, 49-50, 58, 62.
Carillo SEC Memo, p. 9.
Carillo Final Judgment, p. 1.

- (p) You violated the sections 5(a) and 5(c) of the US Securities Act by offering and selling Aureus securities through the Aureus Nominee account you controlled at Broker E when no registration statement for the sales was filed with the SEC or in effect.

Carrillo Complaint, paras. 55, 60.
Carillo SEC Memo, pp. 10-11.
Carillo Final Judgment, p. 1.

- (q) You violated the section 13(d) of the US Exchange Act by failing to file required disclosures revealing that, as a part of a group with Carillo, Wilson, and Wall, Your directly or indirectly owned more than 5% of Aureus stock.

Carrillo Complaint, para. 49.
Carillo SEC Memo, pp. 11-13.
Carillo Final Judgment, p. 1.

Carnovale Proceeding

18. With respect to the *Carnovale* Proceeding, the findings of fact relating to your misconduct are contained in the *Carnovale* Complaint and *Carnovale* Final Judgment and recited in the *Carnovale* SEC Memo:

- (a) You are a resident of Vancouver, British Columbia.

Carnovale Complaint, para. 12.

- (b) You and Carnovale engaged in fraudulent schemes to sell and cause to be sold publicly traded stock to investors. From 2016 through at least October 2020, you and Carnovale's goal was to secretly gain control of thinly traded microcap companies, hire stock promoters to generate demand for their shares, and then profit by selling those shares illegally to unsuspecting investors. With respect to the securities of at least two publicly traded companies, Momentous Holdings Corp. (Momentous) and Uneeqo, Inc.,³ you and Carnovale succeeded in your scheme generating substantial illicit profits while defrauding investors.

Carnovale Complaint, paras. 1-2.

- (c) Before August 2016, Carnovale amassed control over shares of Momentous amounting to approximately 34% of the total shares outstanding and 100% of Momentous' shares issued without a restrictive legend.

Carnovale Complaint, para. 30.

- (d) Beginning in early 2017, you and Carnovale caused large tranches of these shares to be transferred to nominee entities (Momentous Nominees) that you and your co-defendant controlled, including Travel Data Solutions LLC (Travel Data) and Success Zone Technology Limited (Success Zone).

Carnovale Complaint, para. 32.

- (e) To effectuate transfers of stock to Momentous Nominees, you and an associate (Person 1) fabricated documents purporting, falsely, to show that the Momentous Nominees had made payments to acquire their shares. You provided these fabricated documents to Success Zone's broker obscuring the provenance of these shares and your and Carnovale's control over them. These documents were intended to cause the broker to incorrectly conclude that the shares should be made available for trading and were not otherwise subject to registration, holding, and disclosure requirements or limitations on sales by affiliates.

Carnovale Complaint, paras. 33-34.

- (f) You also made additional false or misleading statements to Success Zone's broker regarding the bank accounts into which proceeds from sales of Momentous stock were eventually transferred. These statements were designed to circumvent the broker's anti-money laundering policies and procedures. As a result of this deception, you were able to

³ In the *Carnovale* SEC Memo, the SEC took the position that your misconduct in connection with Momentous was sufficient to support default judgment in its favour. *Carnovale* SEC Memo, p. 5. Accordingly, this application does not include a discussion of your misconduct related to Uneeqo, Inc.

collect and distribute approximately US\$500,000 in proceeds from the eventual sale of Momentous shares.

Carnovale Complaint, paras. 36-38.

- (g) You and Person 1 also provided false and misleading information, including fabricated documents, to an entity that held itself out as a venture capital and private equity firm (Firm A) in connection with the sale Momentous shares. You orchestrated a financing of Momentous by Firm A in exchange for you selling approximately 1.5 million purportedly unrestricted shares of Momentous to Firm A at a discount. You then provided Firm A with fabricated documents. You knew, or were reckless in not knowing, that Firm A would provide the false and misleading information to its broker to deposit and sell the Momentous shares to the investing public. Firm A ultimately sold at least 30,000 of these shares to investors in the marketplace.

Carnovale Complaint, para. 39-43.

- (h) In the spring of 2020, you and Carnovale hired stock promoters to tout Momentous stock to the public. The promotions aggressively touted Momentous stock to potential investors, including senior citizens, but failed to disclose that you and Carnovale paid for the stock promotion and were the beneficial owners of significant quantities of Momentous stock being sold during the promotion.

Carnovale Complaint, paras. 44-45, 49. .

- (i) Your and Carnovale's efforts to promote Momentous stock led to a significant increase in the stock's share price and trading volume in April 2020. The share price quickly declined after the promotion.

Carnovale Complaint, para. 46.

Carnovale SEC Memo, p. 19.

- (j) During March and April 2020, you and Carnovale, through Success Zone, sold approximately 476,601 Momentous shares netting US\$279,000. You deposited US\$142,000 of the proceeds into you personal bank account and transferred approximately US\$50,000 of the proceeds to Carnovale.

Carnovale Complaint, para. 47.

- (k) Around the start of the promotion, you and Carnovale were beneficial owners of approximately 23% of the total outstanding Momentous shares, approximately 77% of the Momentous shares issued without a restrictive legend, and approximately 52% of the shares available for trading.

Carnovale Complaint, para. 49.

- (l) As the stock promoters that you and Carnovale hired did not disclose your and Carnovale's ownership stake or funding of the promotions and Momentous' annual report for fiscal year 2019 did not disclose that you and Carnovale beneficially owned more than 5% of Momentous' common stock, investors were unaware that the majority of shares available for trading belonged to you and Carnovale, who were working together to increase the price of and demand for the stock.

Carnovale Complaint, para. 49.

- (m) Because you and Carnovale controlled a significant percentage of Momentous' outstanding shares, unrestricted shares, and shares available for trading, had the power to affect the price of the shares, and helped secure financing for the company, you and Carnovale has the power to control and influence Momentous' management and policies. You and Carnovale were therefore affiliates of Momentous and were required to register your sales of Momentous stock with the SEC. However, at the time that you and Carnovale sold Momentous stock, no registration statement for those sales was on file with the SEC or in effect.

Carnovale Complaint, paras. 17, 50-51

- (n) You violated sections 17(a)(1) and 17(a)(3) of the US Securities Act, section 10(b) of the US Exchange Act, and SEC Rules 10b-5(a) and 10b-5(c) by engaging in a scheme to defraud investors, which included the following efforts:
- i. You provided a broker with numerous false and falsified statements.
 - ii. You provided Firm A with numerous false and fabricated documents, knowing that they would be provided to market intermediaries.
 - iii. You and Carnovale hired stock promoters to increase demand for Momentous shares, but did not disclose your control over Momentous, funding of the promotion, or sales of Momentous shares during the promotions.

Carnovale Complaint, paras. 33-45, 53, 80-87.

Carnovale SEC Memo, pp. 7-10.

Carnovale Final Judgment, pp. 1-2.

19. Among other things, your brazen fabrication of documents containing false statements demonstrates that you acted with the requisite state of mind to demonstrate fraud.

Carnovale SEC Memo, pp. 9.

20. You violated section 17(a)(2) of the US Securities Act, section 10(b) of the US Exchange Act, and SEC Rule 10b-5(b) by making false statements in connection with the sale of Momentous shares and obtaining money from those sales by means of those false statements.

Carnovale Complaint, paras. 33-49.

Carnovale SEC Memo, pp. 10-11.

Carnovale Final Judgment, pp. 1-2.

21. You violated the sections 5(a) and 5(c) of the US Securities Act by offering and selling Momentous securities through the Success Zone's brokerage account that you controlled when no registration statement for the sales was filed with the SEC or in effect.

Carnovale Complaint, paras. 33-34, 47.

Carnovale SEC Memo, pp. 11-12.

Carnovale Final Judgment, pp. 1-2.

THIS PROCEEDING

22. With this letter, the Executive Director is applying to the Commission for orders against you under section 161 of the Act. I have enclosed a copy of section 161 of the Act for your reference.
23. It is apparent from the findings of violations of the US Securities Act, US Exchange Act, and SEC Rules by you in the *Carrillo* and *Carnovale* Proceedings that your misconduct falls within the scope of section 161(6)(b) of the Act as you have "... been found by a court in Canada or elsewhere to have contravened the laws of the jurisdiction respecting trading securities or derivatives." Accordingly, the Commission may issue orders against you under section 161(1) of the Act.
24. Orders under section 161(1) of the Act are protective, preventative and intended to be exercised to prevent future harm.
- [Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario \(Securities Commission\)](#), [2001] 2 SCR 132, 2001 SCC 37 (CanLII), paras. 36, 39, and 56.
25. In making orders under section 161(1) of the Act, the Commission must consider what is in the public interest in the context of its mandate to regulate trading in securities. In [Re Eron Mortgage Corporation](#), [2000] 7 BCSC Weekly Summary 22 (*Re Eron*), and in subsequent decisions, the Commission identified factors to consider when making orders under section 161(1).
26. The following factors from *Re Eron* are relevant in this proceeding:
- (a) the seriousness of the respondent's conduct,
 - (b) the harm suffered by investors as a result of the respondent's conduct,
 - (c) the extent to which the respondent was enriched;
 - (d) factors that mitigate the respondent's conduct;
 - (e) the risk to investors and the capital markets posed by the respondent's continued participation in the capital markets of British Columbia,
 - (f) the respondent's fitness to be a registrant or to bear the responsibilities associated with being a director, officer or adviser to issuers,
 - (g) the need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of access to the capital markets,
 - (h) the need to deter those who participate in the capital markets from engaging in inappropriate conduct, and
 - (i) orders made by the Commission in similar circumstances in the past.

[Re Eron Mortgage Corporation](#), [2000] 7 BCSC Weekly Summary 22

Application of the Factors**Seriousness of the Conduct**

27. The *Carillo* and *Carnovale* Proceedings both involve serious patterns of egregious misconduct. Your contraventions of US federal securities laws were numerous and include misconduct analogous to contraventions of section 57(a) of the Act, which prohibits market manipulation, and section 61 of the Act, which prohibits illegal distributions of securities.
28. A market manipulation is one of the most serious forms of misconduct contemplated by the Act as it requires a finding of intent on the part of the respondent and some element of deceit. (i.e. creating a misleading appearance of trading activity in, or an artificial price for, a security).

[*Re Lim*](#), 2017 BCSECCOM 319, para. 2.

29. In [*Poonian \(Re\)*](#), 2015 BCSECCOM 96, a Commission panel found:

Market manipulation compromises the integrity of the entire market. Its impact extends beyond the victims who lost money to the investing public as a whole. In *De Gouveia, Re*, [2013 ABASC 249](#) the Alberta Securities Commission concluded that manipulative trading “undermines the integrity of the capital market. It is unfair to investors, and jeopardizes the confidence in the capital market on which legitimate investor interest and capital formation depend”.

30. As described in the Summary of Findings, you participated in multiple schemes where you used numerous deceptive acts to conceal your control of securities of publicly traded companies, you or persons acting in concert with you orchestrated promotional campaigns to generate demand for those shares while not disclosing your group’s control over the companies and funding of the promotions, and you sold your shares to unsuspecting retail investors during the campaigns. The promotional campaigns for Aureus and Momentous corresponded with significant price increases for shares of the companies followed by sharp declines after the promotions ended.

Carillo Complaint, para. 34-62.
Carillo SEC Memo pp. 1, 19.
Carnovale Complaint, para. 26-50.
Carnovale SEC Memo p. 19.

31. Your repeated pattern of obscuring your ownership of stock you controlled and brazen fabrication of documents containing false statements demonstrates that you understood that your conduct was illegal.

Carillo SEC Memo, p. 9.
Carnovale SEC Memo. p. 9.

32. Contraventions of section 61 of the Act are inherently serious. This section is a foundational provision of the Act relating to the protection of investors and preservation of the integrity of the capital markets. The requirement to file a prospectus, or, in the United States of America, a registration statement, in connection with distributions of securities is to ensure investors receive the information necessary to make informed investment decisions.

[*Re Pegasus Pharmaceuticals*](#), 2022 BCSECCOM 145, para. 11
SEC v. Sargent, 589 F. Supp. 3d 173, 184 (D. Mass. 2022).

33. In both the *Carillo* and *Carnovale* Proceedings, you violated section 5 of the US Securities Act by directly or indirectly selling securities when no registration statement for those sales was on file with the SEC or in effect and no exemption from registration was available.

Carillo Complaint para. 128.
Carnovale Complaint, paras. 98.

Harm suffered by investors

34. In cases where the misconduct involves fraud or market manipulation, Commission panels have consistently held that harm to investors can be inferred in the absence of evidence.

[*Nuttall \(Re\)*](#), 2012 BCSECCOM 97, para. 17

35. By the very nature of the misconduct (market manipulation), members of the investing public were deceived as to the value of the shares that were sold by the respondent. While courts and tribunals are unable to attach a specific figure to the harm suffered by investors as a consequence, previous Commission panels have found the harm to investors caused by market manipulation is significant because investors were trading the shares based upon false information.

Re Hable, 2017 BCSECCOM 340

36. Although this is not a case where there is evidence of specific harm to any individual investor, you defrauded investors who thought they were purchasing legitimately unrestricted shares and were unaware of the massive dumps of shares by those controlling the companies involved.

Carillo Complaint para. 3.

37. Your misconduct deprived investors of the safeguards in US securities laws designed to inform them about the nature of stock they are holding or considering buying and from whom they would buying that stock.

Carillo Complaint para. 25.

Carnovale Complaint para. 16.

38. With respect to the *Carillo* Proceeding, the stock price of Aureus plummeted when the promotional activities Carillo orchestrated ended. Investors, who purchased approximately US\$5.2 million of Aureus stock sold by you and Carillo, were harmed by your deceptive actions.

Carillo Complaint, para. 55, 58.

Carillo SEC Memo pp. 1, 18.

39. Similarly, with respect to the *Carnovale* Proceeding, your misconduct directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to investors who decided to buy Momentous stock that you and Carnovale dumped into the market while secretly promoting it. The share price of Momentous stock rose precipitously during the promotion and quickly declined thereafter.

Carnovale Complaint, para. 46.

Carnovale SEC Memo p. 19.

Enrichment

40. With respect to the *Carillo* Proceeding, at a minimum, the net profits that you and your companies retained from illegal trading you conducted in Aureus securities was US\$575,002.

Carillo Complaint, para. 62.

Carillo SEC Memo pp. 15-16.

41. With respect to the *Carnovale* Proceeding, at a minimum, the net profits that you and your companies retained from illegal trading you conducted in Momentous securities was US\$231,020.

Carnovale Complaint, para. 47, 38.

Carnovale SEC Memo p. 17.

Carnovale SEC Declaration, para. 9.

42. At a minimum, you were enriched by your misconduct in the amount of US\$806,022 (approximately, CA\$1.1 million).⁴

Mitigating Factors

43. There are no mitigating factors.

Risk to investors and the capital markets

44. Fraud violates the fundamental investor-protection objectives of the Act. Investors must be confident that the markets are properly regulated and free from manipulation by individuals like you.

[*Mesidor \(Re\)*](#), 2014 BCSECCOM 6 (CanLII), paras. 13 and 14.

45. Market manipulations, like fraud, requires a finding of intent (*mens rea*) on the part of the respondent and some element of deceit. It is this intention to deceive and harm the investing public that makes respondents who engage in market manipulation a significant risk to our capital markets.

[*Re Hable*](#), 2017 BCSECCOM 340, para. 20.

46. Your misconduct involved multiple market manipulations and numerous acts designed to evade regulatory scrutiny. The type, size, scope, gravity, and duration of your misconduct demonstrates that you pose a significant risk to our capital markets.
47. Your failure to participate in the *Carillo* and *Carnovale* Proceedings and take responsibility for the consequences of your misconduct demonstrates that you are a threat to our capital markets.

[*Mesidor \(Re\)*](#), 2014 BCSECCOM 6, para. 31.

48. You presently reside in British Columbia. By participating in multiple market manipulations, you have demonstrated your lack of regard for legitimate market participation in the capital markets. The extent of your misconduct shows that you pose a significant ongoing risk to investors and a serious threat to the integrity of the BC capital markets unless you are permanently banned.

Participation in our capital markets and fitness to be a registrant or a director or officer

49. Participants who engage in the securities industry do so voluntarily and for their own profit. In exchange for the privilege of participating, individuals and companies must comply with securities laws. Compliance is paramount, ensuring the protection of the public and the integrity of the capital markets.
50. Honesty is a critical part of being a registrant or a director or an officer of an issuer. In fact, it is part of the basic duties of those positions.

[*Re SBC Financial Group Inc.*](#), 2018 BCSECCOM 267, para. 34.

51. You have shown flagrant disregard for US securities laws, and there is no basis to believe that you will abide by securities law in the future. You pose a significant ongoing risk to investors and the capital market of British Columbia and your participation in our markets in any capacity would raise grave concerns for the protection of the investing public.

⁴ Calculated using the Bank of Canada daily exchange rate for the US dollar as of January 24, 2024 (1.3484).

52. Your misconduct was deceitful and unscrupulous. You are ill-suited to act as a registrant, director or officer or as an advisor to any private or public issuers going forward

Deterrence

53. You refused to participate in two SEC proceedings and have not accepted any responsibility for your misconduct. The need for specific deterrence cannot be stressed enough.
54. Through the orders we are seeking, we intend to demonstrate the consequences of your conduct, to deter you from future misconduct, and to create an appropriate general deterrent. Permanent market prohibitions are proportionate to your misconduct and are necessary to ensure that you and others will be deterred from engaging in similar misconduct in the future.

Previous orders

55. We refer to a number of decisions for guidance on the appropriate sanction. The three decisions below involve market manipulations:
- [Re Hable](#), 2017 BCSECCOM 340
 - The respondent engaged in a market manipulation of one issuer's shares. The respondent contravened section 57(a) of the Act in creating an artificial price for the shares by issuing a press release for a take-over bid that was not genuine. The respondent also fabricated a document and provided it to the Commission. The respondent was enriched by his misconduct in the amount of \$157,596. The Commission panel ordered broad permanent market prohibitions against the respondent.
 - [Re Lim](#), 2017 BCSECCOM 319
 - Two individual respondents engaged in a market manipulation of one issuer's shares. The respondents contravened section 57(a) of the Act in creating an artificial price for shares of the issuer by orchestrating a tout sheet marketing campaign for the shares and, through trading accounts connected with the respondents, dominating the supply side of the market for the shares at the outset of the promotional campaign. The seriousness of the respondents' misconduct was exacerbated by the extent to which they made efforts to conceal their activities by the use of offshore accounts and third parties. There was no evidence of specific enrichment of the respondents. The Commission panel ordered broad permanent market prohibitions against both respondents.
 - [Re Sungro](#), 2015 BCSECCOM 281
 - Three individual respondents engaged in market manipulation of one issuer's shares. The respondents contravened section 57(a) of the Act in creating an artificial price for shares of the issuer by tightly controlling the shares available for trading and the respondent Williams promoting the shares on an online message board that he moderated. The respondent Williams was enriched in the amount of \$595,500. Williams and two of his companies had previously consented to judgments against them in an SEC enforcement action. The Commission panel ordered broad permanent market prohibitions against Williams and the other two respondents.
56. There are no identical decisions in our jurisdiction containing similar misconduct and level of enrichment. The most comparable decision on misconduct is *Lim*. Similar to the respondents in *Lim*, in both the *Carillo* and *Carnavole* Proceedings, you or your co-defendants orchestrated promotional campaigns for shares of the relevant issuers while your group held a majority of the issuers' shares available for trading. As in *Lim*, these promotional activities drove up the price of

the shares of the issuers, which then declined after the promotions ended. Like the respondents in *Lim*, you made substantial efforts to obscure your misconduct including using offshore nominees and fabricating documents. However, your actions were even more serious than the respondents in *Lim* in that you engaged in market manipulations of multiple issuers and were enriched by your misconduct.

57. The most comparable decision on enrichment is *Sungro* as you and the respondent Williams were both substantially enriched by your misconduct, although your level of enrichment is greater. Similar to Williams, your conduct has resulted in multiple judgments against you in securities regulatory enforcement proceedings.
58. Permanent market prohibitions such as the ones ordered against the respondents in *Lim* and Williams in *Sungro* are consistent with the egregious nature of your intentional and deliberate misconduct. You engaged in market manipulations of multiple issuers resulting in significant enrichment to you while employing deception to conceal your activities. Your misconduct is deserving of permanent market prohibitions.

The Davis Consideration

59. In the Court of Appeal decision in [*Davis v. British Columbia \(Securities Commission\)*](#), 2018 BCCA 149, the Court identified that it is incumbent upon a tribunal to consider a respondent's individual circumstances when determining whether measures short of permanent prohibitions would protect the investing public where a person's livelihood is at stake.
60. The Executive Director is unaware of any individual circumstances that would support orders short of permanent market prohibitions.

ORDERS SOUGHT

61. Although there is no limitation on the Commission from imposing a capital market sanction that is similar or different to the sanctions ordered by the US Court in the *Carillo* and *Carnovale* Proceedings, the Commission needs to consider what sanctions are available under the Act, what is reasonable based on the evidence known to it, and what is in the public interest.
62. In seeking orders under 161(1) of the Act, the Executive Director has taken the following factors into consideration when applying for orders in this proceeding:
 - (a) the circumstances of your misconduct including the Settlement Agreement;
 - (b) the factors from *Eron* and *Davis*;
 - (c) the sanctions ordered in previous cases cited above; and
 - (d) the public interest.
63. Based on the factors in paragraph 61, the Executive Director is seeking the following orders pursuant to section 161(1) of the Act:
 - (a) under section 161(1)(d)(i), you resign any position you hold as a director or officer of an issuer or registrant;
 - (b) you are permanently prohibited:
 - (i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives, except that, if you give a registered dealer a copy of this decision, you may trade in or purchase exchange traded funds or mutual funds securities only through a registered dealer in:

- (A) RRSPPs, RRIFs, or tax-free savings accounts (as defined in the Income Tax Act (Canada)) or locked-in retirement accounts for your own benefit;
- (ii) under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
- (iii) under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
- (iv) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;
- (v) under section 161(1)(d)(iv), from acting in a management or consultative capacity in connection with activities in the securities market; and
- (vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of
 - (A) an issuer, security holder or party to a derivative, or
 - (B) another person that is reasonably expected to benefit from the promotional activity; and
- (vii) under section 161(1)(vi) from engaging in promotional activities on the person's own behalf in respect of circumstances that would reasonably be expected to benefit the person.

64. The Executive Director is not seeking any monetary sanctions against you.

SUPPORTING MATERIALS

65. In making this application, the Executive Director relies on the following, copies of which are enclosed:

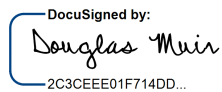
- (a) *Carillo* Final Judgment
- (b) *Carnovale* Final Judgment
- (c) *Carillo* Complaint
- (d) *Carillo* SEC Default Motion
- (e) *Carillo* Clerk's Entry of Default
- (f) *Carillo* SEC Default Judgment Motion
- (g) *Carillo* SEC Memo
- (h) Docket, *Carrillo*, No. 21-cv-11272 (D. Mass. Retrieved November 7, 2023)
- (i) *Carnovale* Complaint
- (j) *Carnovale* SEC Default Motion
- (k) *Carnovale* Clerk's Entry of Default
- (l) *Carnovale* SEC Default Judgment Motion
- (m) *Carnovale* SEC Memo
- (n) *Carnovale* SEC Declaration
- (o) [*E. Sands and Associates Inc. v. Dextras Engineering & Construction Ltd.*](#), 2009 BCSC 42
- (p) *Irizarry-Vazquez v. La Misericordia*, No. 13-1388 (PG), 2016 U.S. Dist. LEXIS 129200 at *6 (D.P.R. Sep. 21, 2016)
- (q) *SEC v. DFRF Enterprises LLC*, 384 F. Supp. 3d 129, 131 (D. Mass. 2019)
- (r) [*Durante \(Re\)*](#), 2004 BCSECCOM 634
- (s) [*Re Sharp*](#), 2023 BCSECCOM 73
- (t) [*Re Skerry*](#), 2021 BCSECCOM 30

- (u) [*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario \(Securities Commission\)*](#), [2001] 2 SCR 132, 2001 SCC 37 (CanLII)
- (v) [*Re Eron Mortgage Corporation*](#), [2000] 7 BCSC Weekly Summary 22
- (w) [*Re Lim*](#), 2017 BCSECCOM 319
- (x) [*Poonian \(Re\)*](#), 2015 BCSECCOM 96
- (y) [*Re Pegasus Pharmaceuticals*](#), 2022 BCSECCOM 145
- (z) *SEC v. Sargent*, 589 F. Supp. 3d 173, 184 (D. Mass. 2022)
- (aa) [*Nuttall \(Re\)*](#), 2012 BCSECCOM 97
- (bb) [*Re Hable*](#), 2017 BCSECCOM 340
- (cc) [*Mesidor \(Re\)*](#), 2014 BCSECCOM 6 (CanLII)
- (dd) [*Re SBC Financial Group Inc.*](#), 2018 BCSECCOM 267
- (ee) [*Re Sungro*](#), 2015 BCSECCOM 281
- (ff) [*Davis v. British Columbia \(Securities Commission\)*](#), 2018 BCCA 149

YOUR RESPONSE

66. You are entitled to respond to this application. To do so, you must deliver any response in writing, together with any supporting materials, to the Commission Hearing Office by **Monday, March 4, 2024**.
67. The contact information for the Commission Hearing Office is:
- Hearing Office
British Columbia Securities Commission
PO Box 10142, Pacific Centre
12th Floor, 701 West Georgia Street
Vancouver, BC V7Y 1L2
E-mail: hearingoffice@bcsc.bc.ca
Telephone: 604-899-6500
68. If you do not respond within the time set out above, the Commission will decide this application and may make orders against you without further notice.
69. The Commission will send you a copy of its decision.
70. **If you have any questions regarding this application, please contact Ms. Jennifer M. Wong, at 604-899-6842, or jwong@bcsc.bc.ca**

Yours truly,

DocuSigned by:

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1/25/2024 | 4:55 PM PST

Douglas B. Muir
Director, Enforcement
JMW/crc
Enclosures

cc: Hearing Office (by email to hearingoffice@bcsc.bc.ca)