BRITISH COLUMBIA SECURITIES COMMISSION
Securities Act, RSBC 1996, c. 418

Citation: Re Donald Bergman and others, 2022 BCSECCOM 20 Date: 20220131

All Canadian Investment Corporation and Donald Bergman

Panel	Judith Downes	Commissioner
	Gordon Johnson	Vice Chair
	Deborah Abbey	Commissioner
Hearing Date	December 13, 2021	
Submissions Completed	December 13, 2021	
Decision Date	January 31, 2022	
Appearing		
Deborah W. Flood Beverly Ma	For the Executive Director	
Donald Bergman	For himself	
Jeremy West	All Canadian Investment Corporation	

Decision

I. Introduction

[1] This is the sanctions portion of a hearing under sections 161(1) and 162 of the *Securities Act*, RSBC 1996, c. 418 (Act). The findings of this panel on liability made on July 28, 2021 (2021 BCSECCOM 302) are part of this decision.

[2] We found that

(a) All Canadian Investment Corporation (ACIC):

(i) made misrepresentations contrary to section 50(1)(d) of the Act, and

(ii) made false or misleading statements in documents required to be filed under the Act, contrary to section 168.1(1)(b)

in connection with statements (Misrepresentations) made in three offering memorandums (together, Offering Memorandums) regarding the registration and priority of certain of mortgages issued to secure loans made by ACIC, and

(b) Donald Bergman (Bergman) authorized or permitted and acquiesced in ACIC's contraventions of the Act and, by operation of section 168.2(1), contravened the same provisions as did ACIC.

[3] The executive director and Bergman made written and oral submissions on the appropriate sanctions in this case.

[4] ACIC made written submissions on the appropriate sanctions but did not attend the hearing.

[5] This is our decision with respect to sanctions.

II. Positions of the Parties

[6] The executive director sought the following sanctions against the respondents:

(a) against ACIC, a permanent market ban under section 161(1) of the Act, and

(b) against Bergman, a 15-year market ban under section 161(1), an order in the amount of $20,256.06 under section 161(1)(g) and a $200,000 administrative penalty under section 162.

[7] ACIC did not oppose the sanctions sought by the executive director. ACIC submitted that monetary sanctions are not necessary or in the public interest in these circumstances. It argued that the market ban is sufficient to serve the public interest and, in particular, to protect investors, promote the fairness and efficiency of the markets and preserve public confidence.

[8] Bergman did not oppose certain of the market bans sought by the executive director. However, he did not agree with a trading ban that would prohibit him from investing on his own behalf. He also opposed the section 161(1)(g) order. He argued that the management fees on which the amount of this order was based were applied to legitimate administrative costs relating to the operation of ACIC's business and should not be required to be disgorged. He also opposed the $200,000 administrative penalty. He said he had no assets and minimal income. He also stated that he is experiencing significant stress as a result of marital problems.

III. Analysis

A. Factors

[9] In *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22, the Commission provided a non-exhaustive list of factors relevant to making orders under sections 161 and 162 of the Act:

> In making orders under sections 161 and 162 of the Act, the Commission must consider what is in the public interest in the context of its mandate to regulate trading in securities. The circumstances of each case are different, so it is not possible to produce an exhaustive list of all of the factors that the Commission considers in making orders under sections 161 and 162, but the following are usually relevant:
>
> - the seriousness of respondent's conduct,
> - the harm suffered by investors as a result of the respondent's conduct,

- the damage done to the integrity of the capital markets in British Columbia by the respondent's conduct,
- the extent to which the respondent was enriched,
- factors that mitigate the respondent's conduct,
- the respondent's past conduct,
- the risk to investors and the capital markets posed by the respondent's continued participation in the capital markets of British Columbia,
- the respondent's fitness to be a registrant or to bear the responsibilities associated with being a director, officer or adviser to issuers,
- the need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of access to the capital markets,
- the need to deter those who participate in the capital markets from engaging in inappropriate conduct, and
- orders made by the Commission in similar circumstances in the past.

B. Application of the factors

Seriousness of conduct, integrity of capital markets

[10] There is no question that misrepresentation under section 50(1)(d) is serious misconduct. In *Re Michaels*, 2014 BCSECCOM 457 at paragraph 8, the panel said:

> Not far behind fraud, in the scale of seriousness of misconduct, stands misrepresentation. Those who operate and profit in the capital markets by misstating material facts (through commission or omission), undermine the confidence of the public in one of the cornerstones of capital markets regulation, the provision of accurate and complete information for investors to make informed investment decisions.

[11] In this case, the misconduct was not an isolated incident. The seriousness of the misconduct was exacerbated by the fact that the Misrepresentations were made over a period of two years in the three Offering Memorandums.

[12] Additionally, we found that the respondents had actual knowledge that the Misrepresentations were false. In *Re FS Financial Strategies*, 2020 BCSECCOM 121 at paragraph 92, the panel said that a respondent's state of knowledge is a consideration in determining the appropriate sanctions. They said a respondent who has actual knowledge of the falsity of the representation merits a greater sanction than one who has only constructive knowledge.

[13] A contravention of section 168.1(1)(b) is also a serious breach under the Act. As noted in *Re Mountainstar Gold Inc.*, 2019 BCSECCOM 123 at paragraph 17, accurate and timely disclosure is fundamental to the operation and integrity of the capital markets. Information regarding the registration and priority of the ACIC mortgages was of fundamental importance to investors in making their investment decision as this information went to the safety and security of their investment. The failure to provide accurate and complete disclosure negatively affects the investor confidence necessary for a fair and efficient market.

Harm to investors

[14] ACIC raised over $1.602 million from 56 investors over a two-year period. There was evidence that, on wind up of the business of ACIC pursuant to proceedings under the *Companies' Creditors Arrangement Act*, RSC, 1985, c C-36 (CCAA), the estimated total recoveries for

investors likely will fall in the range of 3.88% and 18.05%. This will result in losses for investors between 81.95% and 96.12%.

[15] While these losses cannot be attributed solely to the Misrepresentations, it was clear that ACIC's failure to register certain of its mortgages impacted the financial recovery of its mortgage investments.

[16] Many of the investors were elderly and will have little opportunity to recover the funds they invested in ACIC.

Enrichment of the respondents

[17] ACIC directly received over $1.602 million in proceeds from the Offering Memorandums containing the Misrepresentations and was thus enriched by this amount as a result of its misconduct.

[18] There is no evidence that Bergman directly received any proceeds of the offerings in issue. However, he was the sole shareholder, director and officer of ACIC Financial Development Inc. (AFDI), a company which provided management services to ACIC. These services included implementing the offerings pursuant to the Offering Memorandums. ACIC paid AFDI a management fee for its services.

[19] Bergman was indirectly enriched by the amount of the management fees paid to AFDI which are attributable to the proceeds from the Offering Memorandums. As noted below, the onus is on the executive director to prove a reasonable approximation of that amount indirectly received by Bergman before any order can issue under section 161(1)(g).

Aggravating factors

[20] It is an aggravating factor that Bergman was previously a registrant under the Act. From 1984 to 2000, he was registered in various capacities both as a representative for mutual fund securities and subsequently as a representative for securities and exchange forward contracts. From 1992 to 2000, he was registered as a trading partner, director or officer.

[21] Bergman's registration in these various capacities should have made him aware of the requirements of the Act and the importance to investors of accurate and complete disclosure in making investment decisions and the effect of a failure to do so on investor confidence necessary for fair and efficient markets.

Mitigating factors

[22] There are no mitigating factors.

Past misconduct

[23] The respondents do not have a history of securities regulatory misconduct.

Risk to our capital markets; fitness to be a registrant or director or officer of an issuer.

[24] The nature of the respondents' misconduct causes us to have serious concerns about their fitness to participate in the capital markets as issuers or registrants or in other capacities and, in the case

of Bergman, to have a position of control or direction over issuers. It is critical that those who participate in the capital markets do so with honesty and integrity to preserve the integrity of the markets and the investor confidence necessary for fair and efficient markets.

Specific and general deterrence

[25] The sanctions we impose must be sufficient to ensure the respondents and others will be deterred from engaging in misconduct similar to the respondents in this case.

[26] It is also important that, in each case, individual circumstances are considered and the sanctions imposed are proportionate to the misconduct in issue.

Prior orders in similar circumstances

[27] The executive director cited a number of decisions which he said were instructive when assessing appropriate sanctions in this case. The most relevant to the circumstances before us are *Re Royal Crown Ventures Group Ltd. and Thomas Joseph Sears*, 2011 BCSECCOM 289 and *Re DominionGrand*, 2019 BCSECCOM 335.

[28] In *Re Royal Crown Ventures*, the respondents were found to have contravened section 50(1)(d) of the Act in connection with misrepresentations made in the course of raising $1.9 million through the sale of shares to 95 investors. They were also found to have engaged in unregistered trading contrary to section 34(1)(a), illegal distributions contrary to section 61(1) and telephoning residences for the purposes of trading in a security contrary to section 49(2)(b). In addition, it was determined the individual respondent had benefited from his misconduct by diverting $500,000 of the $1.9 million raised for his own use.

[29] A permanent market ban was issued against the corporate respondent and a 20-year ban against the individual respondent. The respondents were made jointly and severally liable for an administrative penalty of $1.9 million. Joint and several liability was also imposed under a section 161(1)(g) order in the amount of $1,895,000.

[30] While the number of investors and the amount raised in *Re Royal Crown Ventures* was similar to this case, the misconduct was more egregious. Our sanctions in this case must reflect the difference in the seriousness of the misconduct.

[31] *Re DominionGrand* involved fraud contraventions under section 57(b) and section 168.2 of the Act. As in this case, the issuers involved were mortgage investment corporations. The respondents raised $1.12 million from 38 investors pursuant to offering memorandums and marketing materials which represented that the funds raised would be invested in mortgages secured by real estate. However, most of the money went to companies related to the respondents which companies did not invest in real estate. There was no evidence that any of the individual respondents was enriched, directly or indirectly, by diversion of investor funds.

[32] All of the respondents received permanent market bans. In addition, administrative penalties were levied against two of the individual respondents in the amount of $250,000 and against the other individual respondent in the amount of $150,000. The two corporate respondents were ordered to pay $561,479 and $500,961 respectively pursuant to section 161(1)(g).

[33] Again the number of investors and the amount of funds raised in *Re DominionGrand* were similar to this case. There are also similarities in the nature of the misconduct in the two cases although that in *Re DominionGrand* was more egregious as it involved fraud. As noted above, misrepresentation is not far behind fraud in the scale of seriousness of misconduct. Given this, our decision should reflect that the sanctions in *Re DominionGrand* are the high-end of appropriate sanctions for the misconduct in this case.

IV. Appropriate sanctions

Market prohibitions

[34] The executive director is seeking a permanent market ban against ACIC and a 15-year market ban against Bergman.

[35] Market bans are appropriate in this case. As noted above, the nature of the respondents' misconduct causes us to have serious concerns about their fitness to participate in the capital markets.

[36] ACIC's business has failed and ACIC is subject to CCAA proceedings. The investors will likely lose most of their money. In these circumstances, it is appropriate that ACIC be permanently prohibited from raising capital from investors.

[37] Bergman did not oppose the market bans sought by the executive director other than those related to trading on his own behalf, acting as a promoter and engaging in promotional activities on his own behalf in respect of circumstances that would reasonably expected to be for his benefit.

[38] We found that Bergman had actual, as opposed to constructive knowledge, of the Misrepresentations. During the period in issue, Bergman was the mind and management of ACIC and authorized or permitted and acquiesced in ACIC's misconduct. Our sanctions must take into account the ongoing risk Bergman poses to the public demonstrated by his misconduct.

[39] While the executive director initially opposed a carve-out from the trading prohibition, he agreed at the hearing to a carve-out that would permit Bergman to trade for his own account through a registered dealer or registrant.

[40] We see no risk to the public in permitting Bergman to engage in trading for his own account on the terms proposed by the executive director. However, there is a risk associated with permitting Bergman to act as a promoter and to engage in promotional activities as the preparation and distribution of the Offering Memorandums were undertaken as part of promotional activities relating to the sale of ACIC's securities.

[41] The 15-year market ban against Bergman proposed by the executive director is less than that imposed against the individual respondents in *Re Royal Crown Ventures* and *Re DominionGrand* which is appropriate given the difference in the seriousness of the misconduct in issue.

[42] After considering the above, in the circumstances we find it to be in the public interest and proportionate to the misconduct in issue to impose a permanent market ban against ACIC and a market ban of 15 years against Bergman with the limited trading carve-out described above.

Administrative penalties

[43] The executive director is not seeking an administrative penalty under section 162 against ACIC. He is seeking an administrative penalty against Bergman in the amount of $200,000.

ACIC

[44] The executive director submitted that it is not in the public interest to issue monetary penalties against ACIC under section 162. He said that ACIC remained under the protection of the CCAA and, at the time of the hearing, the Commission was limited in its ability to enforce monetary orders against ACIC under a stay order issued in connection with the CCAA proceedings.

[45] The executive director submitted that, in any event, it is likely that any monetary penalties imposed on ACIC will be uncollectable as ACIC will not have significant assets after conclusion of the CCAA proceedings. He said that ACIC's assets are being liquidated and will be subject to a plan of distribution among creditors and investors.

[46] The executive director also submitted that ACIC was the alter ego of Bergman and did not act independently from him. He cited *Re Oei*, 2018 BCSECCOM 231 at paragraph 128 where the panel stated there was little public interest in issuing separate orders against corporate respondents that have no assets or operations and were, at the time of the misconduct, controlled and operated solely at the direction of an individual respondent.

[47] As set out in our findings, ACIC, with the approval of the British Columbia Supreme Court, entered into an agreed statement of facts with the executive director. ACIC advised, and the executive director confirmed, the agreed statement of facts was entered into on the basis that the executive director would seek only market sanctions against ACIC. ACIC recognized that, nonetheless, the Commission has discretion to impose monetary sanctions against it.

[48] After considering the above, in the circumstances we find it is not in the public interest to issue an administrative penalty under section 162 against ACIC. We find that the market ban is sufficient to serve the public interest and, in particular, to protect investors, promote the fairness and efficiency of the markets and preserve public confidence.

Bergman

[49] As noted above, Bergman stated he had no assets and limited income to satisfy any monetary penalty against him. However, he did not provide any evidence of his financial circumstances. In *Re Cook*, 2017 BCSECCOM 260 at paragraphs 38 and 39, the panel found that a claim of impecuniosity without evidence is not sufficient for it to be considered as a factor in determining appropriate sanctions. The panel also said the onus is on the respondent to demonstrate the inability to pay.

[50] In any event, a respondent's financial circumstances are not, in and of themselves, determinative of what financial sanctions should be ordered. Impecuniosity is relevant to issues of specific deterrence but of no relevance to issues of general deterrence.

[51] As set out above, we find the respondents' misconduct was less serious than that of the respondents in *Re Royal Crown Ventures* and *Re DominionGrand.* However, an important consideration in this case is the significant projected investor losses.

[52] After considering the above, in the circumstances we find that an order under section 162 against Bergman in the amount of $130,000 to be in the public interest and proportionate to the misconduct in issue.

Section 161(1)(g) orders

[53] Section 161(1)(g) states that the Commission, after a hearing, may order:

> […] if a person has not complied with this Act, the regulations or a decision of the commission or the executive director, that the person pay to the commission any amount obtained, or payment or loss avoided, directly or indirectly, as a result of the failure to comply or the contravention;

[54] The British Columbia Court of Appeal in *Poonian v. British Columbia Securities Commission*, 2017 BCCA 207, adopted a two-step approach from *Re SPYru Inc.*, 2015 BCSECCOM 452 at paragraphs 131 and 132, when considering section 161(1)(g) orders:

> [131] The first step is to determine whether a respondent, directly or indirectly, obtained amounts arising from his or her contraventions of the Act. This determination is necessary in order to determine if an order can be made, at all, under section 161(1)(g).
>
> [132] The second step of my analysis is to determine if it is in the public interest to make such an order. It is clear from the discretionary language of section 161(1)(g) that we must consider the public interest, including issues of specific and general deterrence.

[55] The executive director is seeking an order in the amount of $20,256.06 under section 161(1)(g) against Bergman. He is not seeking a section 161(1)(g) order against ACIC.

ACIC

[56] We found that ACIC received over $1.602 million in proceeds from the issuance of securities pursuant to the Offering Memorandums containing the Misrepresentations. We find these funds were directly obtained by ACIC as a result of its misconduct. While some of the proceeds may have been used for their intended purpose, they were raised by misrepresentations as to the security and priority of mortgage loans in which the proceeds were to be invested.

[57] Our analysis regarding the public interest in issuing a section 161(1)(g) order in these circumstances is the same as that relating to the public interest in ordering an administrative penalty against ACIC under section 162. In the circumstances, we find it is not in the public interest to issue an order under section 161(1)(g) against ACIC. We find that a market ban is sufficient to serve the public interest and, in particular, to protect investors, promote the fairness and efficiency of the markets and preserve the public confidence.

Bergman

[58] We found that Bergman engaged in the same misconduct as ACIC when he authorized or permitted and acquiesced in ACIC's contraventions of the Act. However, that does not mean he was indirectly enriched in the same amount as ACIC.

[59] In *Re DominionGrand* at paragraph 48, the panel stated that in order to find an individual respondent indirectly obtained funds derived from misconduct in connection with a section 161(1)(g) order, there must be evidence of more than just direction and control of entities which commit the misconduct. There must be some evidence of personal benefit to the respondent.

[60] AFDI provided a variety of management services to ACIC in addition to those relating to syndication and implementation of the offerings made pursuant to the Offering Memorandums. ACIC had a considerable loan portfolio. For instance, ACIC's September 30, 2014 financial statements show $21,501,115 in mortgages receivable and $11,822,467 in promissory notes receivable. AFDI provided services relating to the administration of ACIC's loan portfolio including reviewing potential investments, liaising with borrowers and conducting regular visits to the properties subject to ACIC's mortgage loans. AFDI also provided ACIC with investor relations and reporting services as well as an office free of rent, utilities and basic telephone charges.

[61] AFDI was paid a management fee equal to 2% of ACIC's total assets as reflected in its financial statements from time to time and 15% of its gross revenues. "Gross revenues" was defined to mean all interest, fees and other amounts received by ACIC from the conduct of its business from time to time.

[62] The executive director submitted that the portion of AFDI's management fee based on ACIC's total cash proceeds from the distributions tied to the Offering Memorandums was the amount indirectly obtained by Bergman as a result of his misconduct.

[63] As set out in *Poonian* at paragraph 139, the onus is on the executive director to prove on a balance of probabilities a reasonable approximation of the amount obtained by Bergman as a result of his contraventions of the Act. The burden then shifts to the respondent to disprove the reasonableness of that amount.

[64] The executive director submitted that as AFDI was entitled to receive a management fee equal, in part, to 2% of ACIC's assets and "cash" was reported as an asset in ACIC's financial statements, Bergman, through AFDI, obtained 2% of ACIC's cash assets in management fees.

[65] The executive director calculated the amount indirectly obtained by Bergman based on an analysis of ACIC's financial statements for the years in issue.

[66] The amount of cash assets shown on the balance sheet in ACIC's financial statements was based on the Statement of Cash Flows included in those statements. The cash at end of year (Total Cash Balance) shown in the Statement of Cash Flows represented the cash assets in any particular fiscal year. For example, the Statement of Cash Flows for the year ended September 30, 2014 showed the following:

All Canadian Investment Corporation
Statement of Cash Flows

For the year ended September 30	2014	2013
Cash flows provided by (used in):		
Operating activities		
Cash receipts from mortgage operations	$ 937,005	$ 1,060,382
Cash paid to suppliers	(1,589,641)	(989,052)
	(652,636)	71,330
Investing activities		
Issuance of new mortgages and loans receivable	(3,738,000)	(4,990,611)
Repayment of mortgages and loans receivable	974,957	1,986,820
Deposit on land and building	(100,000)	-
	(2,863,043)	(3,003,791)
Financing activities		
Proceeds from short-term debt	1,200,000	1,000,000
Advances from related party	-	165,000
Repayment of short-term debt	(681,917)	(100,000)
Dividends paid	(2,310,588)	(1,778,585)
Redemption of preferred shares	(1,086,000)	(3,309,000)
Proceeds from issuance of preferred shares	4,358,000	7,193,000
Proceeds from debenture offering	2,150,000	-
	3,629,495	3,170,415
Increase in cash	113,816	237,954
Cash, beginning of year	329,875	91,921
Cash, end of year	$ 443,691	$ 329,875

[67] The executive director said that ACIC received $623,000 from distributions pursuant to the Offering Memorandums in the fiscal year ended September 30, 2014. He said that amount would have been included in the $4,358,000 shown in the Statement of Cash Flows as proceeds from the issuance of preferred shares. The executive director stated that the proceeds from the Offering Memorandums contributed to ACIC having a year-end net increase in cash of $113,816 and a year-end Total Cash Balance of $443,691. He said that but for those Offering Memorandum proceeds, ACIC would have had a lower reported 2014 Total Cash Balance.

[68] Based on this analysis, the executive director submitted that the entire amount of ACIC's 2014 Total Cash Balance was a proceed arising from Bergman's misconduct and he should be required to disgorge 2% of that amount or $8,873.82.

[69] The executive director provided similar analyses of the other relevant financial statements.

[70] We agree that the portion of AFDI's management fee based on ACIC's total cash proceeds from the distributions tied to the Offering Memorandums was the amount indirectly obtained by Bergman as a result of his misconduct. However, we do not agree that 2% of ACIC's Total Cash Balance in any particular fiscal year represents a reasonable approximation of the proceeds of Bergman's misconduct.

[71] The calculation of ACIC's Total Cash Balance includes a number of inputs unrelated to the proceeds from the Offering Memorandums. For instance, the $623,000 received by ACIC in fiscal 2014 from distributions pursuant to the Offering Memorandums represents only approximately 14% of the total proceeds received from the issuance of ACIC preferred shares in that fiscal year. Other amounts received in that fiscal year include $1,200,000 in proceeds from short term debt and $2,150,000 in proceeds from a debenture offering. We find there is not a sufficient nexus between the amounts used to calculate ACIC's Total Cash Balances and the proceeds of the Offering Memorandums for the Total Cash Balances shown on ACIC's financial statements in any fiscal year to form the basis for a reasonable approximation of the amount received by Bergman from his misconduct.

[72] The executive director provided evidence of payments made directly to Bergman by AFDI during the period in issue. However, he did not introduce any evidence tying the purpose or source of those payments to Bergman's misconduct. In the absence of such evidence, a section 161(1)(g) order cannot be made with respect to these amounts.

[73] Although we have accepted that Bergman was indirectly enriched to some degree, the test set out in *Poonian* requires more before we can make an order under section 161(1)(g). *Poonian*, at paragraph 139, puts the onus on the executive director to quantify "any ill-gotten amounts", not with precision, but by proving a reasonable approximation of the amount obtained. We find that the executive director has failed to establish a reasonable approximation of the amounts obtained by Bergman as a result of his contraventions of the Act. As a result, we are unable to make an order under section 161(1)(g) against Bergman.

V. Orders

[74] Considering it to be in the public interest, and pursuant to sections 161 and 162 of the Act, we order that:

Bergman

(a) under section 161(1)(d)(i), Bergman resign any position he holds as a director or officer of an issuer or registrant;

(b) Bergman is prohibited for the later of 15 years and the date the amount set out in subparagraph (c) below is paid:

(i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives, a specified security or derivative or a specified class of securities or class of derivatives, except that he may trade and purchase securities or derivatives for his own account (including one RRSP account, one TFSA account

and one RESP account), through a registered dealer or registrant, if he gives the registered dealer or registrant a copy of this decision;

(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 advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets;

(vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of an issuer, security holder or party to a derivative, or another person that is reasonably expected to benefit from the promotional activity;

(vii) under section 161(d)(vi), from engaging in promotional activities on Bergman's own behalf in respect of circumstances that would reasonably be expected to benefit Bergman; and

(c) Bergman pay the commission an administrative penalty of $130,000 under section 162 of the Act; and

ACIC

(d) ACIC is permanently prohibited:

(i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives;

(ii) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter; and

(iii) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of an issuer, security holder or party to a derivative, or another person that is reasonably expected to benefit from the promotional activity.

January 31, 2022

For the Commission

Judith Downes Gordon Johnson

Commissioner

Vice Chair

Deborah Abbey
Commissioner