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

Citation: Re Deyrmenjian, 2019 BCSECCOM 93 Date: 20190311

Garo Aram Deyrmenjian, Raffi Khorchidian, David Craven, and EuroHelvetia TrustCo. S.A. now known as EHT Corporate Services S.A.

Panel	Judith Downes	Commissioner
	Gordon L. Holloway	Commissioner
	Suzanne K. Wiltshire	Commissioner
Hearing Date	January 16, 2019	
Submissions Completed	January 16, 2019	
Date of Decision	March 11, 2019	

Appearing

Derek Chapman David Hainey	For the Executive Director
Robert Cooper, Q.C. Samantha Chang	For Garo Aram Deyrmenjian
Lisa Ridgedale	For Raffi Khorchidian
Angus M. Gunn, Q.C.	For David Craven and EuroHelvetia TrustCo. S.A. now known as EHT Corporate Services S.A.

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. The Findings of this panel on liability made on April 25, 2018 (2018 BCSECCOM 125) are part of this decision.

[2] We found that:

(a) each of Raffi Khorchidian, Garo Aram Deyrmenjian and EHT Corporate Services S.A. contravened section 57(a) of the Act in respect of the shares of Kunekt Corporation, and

(b) David Craven, as a managing director of EHT, authorized, permitted or acquiesced in EHT's conduct that contravened section 57(a) and that under section 168.2 of the Act, Craven also contravened section 57(a).

[3] The executive director and the respondents provided written and oral submissions with respect to the appropriate sanctions in this case.

[4] The respondents stated that their submissions on sanctions were made without prejudice to their various applications to the Court of Appeal seeking leave to appeal the Findings.

[5] This is our decision with respect to sanctions for the respondents' misconduct.

[6] On September 28, 2018, EHT and Craven (the applicants) also made an application under section 171 of the Act to revoke or vary parts of the Findings and to dismiss the allegations against them in the amended notice of hearing dated March 8, 2017. We heard the application on November 2, 2018. We gave our ruling denying the application at the hearing. Our reasons are set out below.

II. Section 171 Application

A. Background

[7] The applicants sought to have 15 specific provisions of the liability decision revoked or varied. All of those provisions are tied to our Findings that:

- EHT funded the Kunekt tout sheet marketing campaign by paying CFM's January 9, 2011 invoice in the amount of USD$600,000 for CFM's services relating to the campaign with funds from its own account at Compagnie Bancaire Helvetique (the EHT account),

- there was no evidence that any other party contributed to EHT's payment of that invoice, and

- Craven was one of the parties who authorized the wire transfer payment of that invoice on behalf of EHT.

[8] These three Findings were key to our determination that the applicants had contravened section 57(a) of the Act.

[9] The applicants sought to introduce further evidence that they said falsified these findings.

[10] This further evidence submitted by the applicants with their section 171 application comprised the following affidavits (the Affidavits):

- An affidavit executed on September 21, 2018 by Roger F. Hunziker, representing Hunziker Associates S.A., EHT's liquidator in Geneva, Switzerland. Attached to his affidavit was a copy of a redacted bank statement (the Redacted Bank Statement) for the EHT account for the period January 3, 2011 to May 19, 2015.

The statement showed two deposits of USD$300,040 being entered in the account on January 20, 2011 immediately followed by the transfer out of USD$600,042.60.

- An affidavit executed on September 24, 2018 by Professor Alexandre Richa, a Swiss lawyer and Associate Professor of Business Law at the University of Lausanne, Switzerland. In the affidavit, Professor Richa described the Swiss legal framework and restrictions regarding the production of the Redacted Bank Statement in the context of these proceedings before and after the issuance of our liability findings and generally the legality under Swiss law of the submission of information regarding beneficial owners and/or clients in connection with these proceedings.

- An affidavit executed on October 31, 2018 by Roger F. Hunziker responding to certain submissions made by the executive director in connection with this application. In this affidavit, Hunziker quoted the client confidentiality provision included in the mandates signed by EHT clients that were in force in 2016. He stated that he was informed and believed that neither of the two entities (the depositors) that made the USD$300,040 deposits into the EHT account had agreed to waive the confidentiality provision or to consent to the disclosure of their names. He also stated that he had reviewed the administrative mandates of the depositors and confirmed that neither EHT nor Craven is the beneficial owner (directly or indirectly) of the depositors. He stated that, as liquidator of EHT, he was aware of the entities that form part of the EHT group (including Paramount Trading Company Inc.) and he confirmed that neither of the depositors is part of the EHT group.

B. Applicants' submissions

[11] The applicants submitted that the Affidavits satisfied the tests under section 171 to revoke or vary the liability findings against them.

[12] The applicants said that these liability findings are anchored in the conclusion that EHT funded the first phase of the Kunekt tout sheet marketing campaign. They submitted that the Affidavits establish that EHT did not fund any part of the marketing campaign, including the first phase. They pointed to the two deposits of USD$300,040 made in the EHT account immediately before the transfer of USD$600,042.60 made to pay the first CFM invoice and to the confirmation by Hunziker that the beneficial owners of the depositors are not the applicants or part of the EHT group.

[13] The applicants said that the executive director had tendered no clear, convincing and cogent evidence as to the source of funds for the USD$600,042.60 payment. They submitted that the applicants have tendered evidence regarding the source of those funds to the extent permitted by law. The applicants said that while the new evidence was insufficient to establish the source of those funds, the applicants and the EHT group had been excluded as the source.

[14] The applicants submitted that, as a result, the executive director had failed to establish that EHT funded the first phase of the Kunekt tout sheet marketing campaign.

[15] The applicants did not deny that the Redacted Bank Statement was in their possession at the time of the liability hearing. They said that their decision to withhold the document was based on an assessment of the risk to the applicants of disclosing the statement at the time of the hearing.

[16] The applicants submitted that, based on Professor Richa's affidavit, voluntary disclosure by EHT of the bank statement or the information it contained as part of EHT's defence would have posed a very high risk of breaching Swiss law as well as EHT's contractual commitments. They said that while disclosure of a redacted version would have mitigated some of those risks, it would have exposed the depositors to the risk of regulatory enforcement action being initiated against them in Canada as the limitation period with respect to these proceedings had not yet expired. The applicants said that this, in turn, would have increased the risk to EHT of a complaint by the depositors to Swiss authorities.

[17] The applicants submitted that, as disclosure of even the Redacted Bank Statement at the time of the liability hearing would have exposed them to a high risk of criminal and civil sanction, it could not be considered as reasonably available to the applicants for use at the liability hearing.

[18] The applicants stated that, although the legal and contractual limits on EHT's ability to rely upon the Redacted Bank Statement had not changed since the liability hearing, the risk created by disclosure had shifted. They said that the Canadian regulatory enforcement risk to the applicants had increased substantially now that the executive director is seeking substantial penalties against them as a consequence of the Findings. They also said that the risk under Swiss law has abated as the limitation period under the Act with respect to conduct of the depositors has expired.

C. Executive director's submissions

[19] The executive director submitted that the Redacted Bank Statement was available for use by the applicants at the hearing. He said that the applicants made a strategic decision not to disclose the document and they now sought a second chance at defending the allegations by bringing this section 171 application to reopen the Findings. He submitted that section 171 was not intended to permit respondents to litigate by instalments so that they could try out different litigation strategies at different times.

[20] The executive director said that EHT's primary justification for not disclosing the Redacted Bank Statement at the liability hearing was that Swiss bank secrecy laws prevented it from doing so. The executive director submitted that Swiss law does not apply in British Columbia. He said that the Commission has previously held that secrecy laws of foreign jurisdictions are not relevant to the Commission's consideration of the public interest. As a result, it would be contrary to the public interest to revoke or vary the liability findings based on EHT's purported reliance on Swiss bank secrecy laws.

[21] As to EHT's purported concern that the limitation period with respect to the Canadian regulatory enforcement action against the depositors had not yet expired, the executive director submitted that it would be prejudicial to the public interest to revoke or vary the liability findings based on EHT's attempts to conceal its clients from potential liability. The executive director also submitted that the limitation period for the Kunekt tout sheet marketing campaign expired before the liability hearing.

[22] Finally, the executive director submitted that the Redacted Bank Statement did not provide clear, cogent and convincing evidence that the funds used to pay CFM's first invoice were beneficially owned by someone other than the applicants. As a result, even if the panel had been provided with the Redacted Bank Statement at the liability hearing, it would not have changed its liability findings against the Applicants.

D. The law on section 171 applications

[23] Section 171 of the Act states:

> If the commission … considers that to do so would not be prejudicial to the public interest, the commission … may make an order revoking in whole or in part or varying a decision the commission … has made under this Act, … whether or not the decision has been filed under section 163.

[24] *BC Policy 15-601 - Hearings* sets out procedures for hearings under the Act. Section 8.10(a) provides guidance on revoking or varying a decision. It states, in part:

> … Before the Commission changes a decision, it must consider that it would not be prejudicial to the public interest. This usually means that the party must show the Commission new evidence or a significant change in the circumstances.

[25] The Commission has consistently applied the thresholds described in *BC Policy 15-601*.

[26] In *Re Pyper*, 2004 BCSECCOM 238, the respondent applied under section 171 to vary the sanctions imposed on him. The Commission panel stated:

> For an application under section 171 to succeed, the applicant must show us new and compelling evidence or a significant change in circumstances, such that, had we known them when we issued our sanctions decision, we would have made a different decision.

[27] In *Re Steinhoff*, 2014 BCSECCOM 211, the panel followed *Re Pyper* and adopted the two-prong test used in *Foresight Capital Corporation*, 2006 BCSECCOM 529 and 2006 BCSECCOM 531 to determine whether evidence is "new" evidence:

(a) First, the evidence must be relevant to the allegations in the notice of hearing.

(b) Second, the applicant must explain why the evidence was not reasonably available for use at the hearing.

[28] Based on the foregoing, for the applicants to succeed, they had to establish that:

(i) the additional evidence provided in the Affidavits:
(a) was relevant to the allegations in the notice of hearing,

(b) was "new" in that it was not reasonably available for use by the applicants at the time of the liability hearing,

(c) was "compelling" in that if we had been provided with the Affidavits at the time of the liability hearing, we would have decided differently with respect to our liability findings against the applicants; and

(ii) it would not be prejudicial to the public interest to revoke our liability findings against the applicants.

[29] In our deliberations, we considered the relative importance of the "new" and "compelling" aspects of the analysis required in a section 171 application.

[30] We are a regulator with a public interest mandate. This is reflected in case law in decisions such as *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 as well as various provisions of the Act.

[31] In this case, under section 171, we can only vary or revoke a decision of the Commission if it is not prejudicial to the public interest.

[32] We are of the view that the "compelling" aspect of the test is the more important as this can be determinative of the outcome of the analysis. If a panel finds the additional evidence is not compelling, there is no need to carry on with the analysis to determine if it is "new". It would be prejudicial to the public interest to vary or revoke a decision based on evidence that is not compelling.

[33] If a determination is made that the additional evidence is "compelling", the next question is whether the evidence at issue is "new". Evidence will generally be considered "new" if it was not reasonably available at the time of the liability hearing to the party relying on it. A determination of what is "reasonably available" may include an examination of whether the party seeking to rely on the additional evidence deliberately chose to withhold the evidence in the first instance.

[34] Unlike the "compelling" component of the analysis, a determination of whether additional evidence is "new" is not necessarily determinative.

[35] If the additional evidence is "new," a panel must still consider whether it is prejudicial to the public interest to rely on it to vary or revoke the decision at issue. This assessment may take into consideration, among other things, the potential procedural unfairness and harm to capital markets, including the increase in the number of hearings, unfairness to the parties, and public interest concerns relating to certainty of Commission decisions.

[36] Finally, there may be circumstances in which the additional evidence is not "new" but is "compelling." In these circumstances, the panel may find that it is not prejudicial to the public interest to rely on it to revoke or vary a Commission decision under section 171 of the Act (see *Re Wong* , 2017 BCSECCOM 57, discussed below).

E. Analysis

Is the evidence at issue compelling?

[37] There was no issue that the Affidavits were prima facie relevant to the allegations in the notice of hearing.

[38] The first issue we considered was whether the additional evidence provided in the Affidavits was "compelling". As set out above, in the context of a section 171 application, the test is whether the panel would have decided differently had that evidence been before them at the liability hearing.

[39] Thus, the question in this case was would we have decided differently with respect to the liability findings against the applicants had we been provided with the Affidavits (including the Redacted Bank Statement) at the liability hearing.

[40] The only conclusions that could be drawn from the Redacted Bank Statement, at best, were that on January 20, 2011, two deposits of USD$300,040 were entered in the EHT account, followed by a transfer out of USD$600,042.60 on the same date.

[41] As all of the entries before these three transactions were redacted, we did not know the balance in the account before the deposits were made. As a result, we did not know if there were sufficient funds in the account before the deposit to fund the USD$600,042.60 transfer.

[42] We also did not know the identity of the depositors except that, based on Hunziker's October 31, 2018 affidavit, they were not the applicants or part of the EHT group. We did not know if they had any relationship with Kunekt.

[43] In finding that Khorchidian permitted transfers of funds to the EHT account to pay CFM's February 2, 2011 invoice for USD$836,000 and CFM's February 15, 2011 invoice for USD$800,000, we had evidence of same day wire transfers of substantially the same amounts from Virtigo S.A. to the EHT account. We also had evidence that Virtigo S.A. was beneficially owned by Khorchidian and that Dryster , another company beneficially owned by Khorchidian, profited from trading in Kunekt shares.

[44] Unlike the finding related to Khorchidian outlined above, in the application before us we only had evidence of two coincidental deposits of USD$300,040 from unknown sources being made to the EHT account prior to the USD$600,042.60 wire transfer to pay CFM's first invoice.

[45] Without information regarding the balance in the account prior to the deposits and the identity of the depositors and their relationship, if any, to Kunekt, this coincidence fell short of constituting clear, convincing and cogent evidence from which we could make a reasonable inference that someone other than the applicants or the EHT group funded payment of the first CFM invoice.

[46] We found that if the Affidavits, including the Redacted Bank Statement, had been provided to us at the time of the liability hearing, it would not have resulted in a different decision with respect to the liability findings against the applicants.

Is the evidence at issue new?

[47] Our finding that the Affidavits would not have changed our decision regarding the liability findings against the applicants was determinative of the section 171 application. However, we also considered the question of whether the Redacted Bank Statement was "new" in that it was not reasonably available for use by the applicants at the time of the liability hearing.

[48] The applicants did not dispute the Redacted Bank Statement was available to them at the time of the liability hearing. It was clear from the applicants' submissions that a strategic decision was made to deliberately withhold the document during the liability hearing based on their assessment of the risks involved in making the disclosure.

[49] The applicants said that the high risk of legal jeopardy to EHT had it adduced the Redacted Bank Statement at the liability hearing meant that the document was not reasonably available for use by them.

[50] The Commission has previously found that the secrecy laws of a foreign jurisdiction are not relevant to the exercise of the Commission's public interest jurisdiction. In *Re Hypo Alpe-Adria-Bank (Lichtenstein) AG*, 2007 BCSECCOM 622, in considering whether it was in the public interest to extend a temporary order, the Commission said at paragraph 29:

> …the secrecy laws of foreign jurisdictions are not relevant to the Commission's exercise of its public interest responsibility. The secrecy laws in another jurisdiction cannot serve as a shield against the legitimate exercise by the commission of its powers to enforce securities regulation in British Columbia...

[51] In *Exchange Bank & Trust Inc. v. British Columbia Securities Commission*, 2000 BCCA 389, one of the issues before the British Columbia Court of Appeal was whether the Commission had erred in law in disregarding foreign laws preventing the disclosure of confidential information in its decision not to revoke a freeze order made against the appellant's assets. At paragraph 13, the Court endorsed the following statements made by the Commission in its decision:

> It would be an utter abandonment of the public interest if we were to conclude that a party subject to secrecy laws in another jurisdiction could use those laws to shield themselves from the legitimate exercise of powers to enforce securities regulation in British Columbia. In short, the Nevis privacy laws are not relevant.

[52] The applicants said that the *Re Hypo* decision was not relevant as, in that case, the respondent sought to rebuff a request for information from Commission staff by invoking the secrecy laws of Lichtenstein.

[53] They said that, in the present case, they were not invoking Swiss law to restrict the Commission's exercise of its public interest jurisdiction. They said there was no evidence that the executive director attempted to obtain evidence pertaining to the source of funds for the payment of CFM's first invoice and no evidence as to why he didn't. The applicants said that if the executive director had obtained this evidence through FINMA or some other channel of international assistance, it could have been relied upon by EHT without risk of criminal or civil sanction.

[54] The applicants misconstrued the issue. The question was not whether the executive director could have obtained evidence as to the source of the funds through FINMA.

[55] The issue before us was whether it was in the public interest to permit the applicants to invoke foreign laws restricting the disclosure of personal information as a basis for a document not being reasonably available for use at the liability hearing.

[56] The applicants also submitted that the *Exchange Bank &Trust* case was not relevant in that the respondents in that case relied on Swiss law to narrow the Commission's regulatory scope. They said that, in this case, they were not invoking foreign laws to limit the scope of the Commission's regulatory powers but to assist in construing what "reasonably available" meant in relation to the exercise of the Commission's discretion under section 171.

[57] Whether the circumstances of a case relate to secrecy laws of a foreign jurisdiction being invoked to limit the Commission's regulatory scope or, as in the present case, Swiss laws relating to the protection of Swiss sovereignty and trade secrets being relied upon as the basis for a determination that certain evidence was not reasonably available, the principle is the same. Foreign laws restricting disclosure of information are not relevant to the exercise of the Commission's public interest responsibility in British Columbia.

[58] As the foreign laws cited by the applicants were not relevant to the exercise of our discretion under section 171, they could not be relied upon to justify the applicants' decision to withhold the additional evidence they were now seeking to admit.

[59] In any event, even if the foreign laws were relevant, it was not in the public interest to allow the applicants to withhold evidence as part of a litigation strategy based on an assessment of risks of disclosure and, when that strategy failed, to use section 171 to seek to admit that evidence and re-litigate their liability. That would result in litigation by

instalments which would undermine the fairness and efficiency of the hearing before the panel in the first instance, the finality of decisions based on the record before it in the hearing, and ultimately, the ability of the Commission to effectively and efficiently regulate the capital markets.

[60] We found that the Redacted Bank Statement was reasonably available to the applicants for use at the liability hearing. As a result, it was not "new" evidence for the purposes of the exercise of our discretion under section 171.

[61] There are circumstances where, even if evidence was reasonably available to a respondent at the time of the liability hearing, a panel will consider such evidence in connection with a section 171 application to revoke or vary liability findings.

[62] In *Re Wong*, the panel found that the respondents had committed fraud in an amount equal to the amount by which certain mortgage proceeds exceeded the outstanding loans owed to families of the respondents. The respondents made a section 171 application to vary this finding and to find instead that the amount of the outstanding loans exceeded the amount of the mortgage proceeds. In support of the application, the respondents sought to rely on additional banking documents showing that additional amounts had been advanced by the respondents' families.

[63] There was no dispute in *Re Wong* that these banking documents had been available at the time of the liability hearing or that these documents were compelling. However, unlike the present case, the respondents did not withhold the banking documents as part of a litigation strategy. The respondents said that these documents had been overlooked in the course of a lengthy and complex liability hearing that involved a large volume of documentation.

[64] The panel found that, in the circumstances, it would not be prejudicial to the public interest to admit the additional banking documents evidence and to vary the findings.

[65] The circumstances in the case before us were quite different than in *Re Wong*. We have found that the Redacted Bank Statement was reasonably available for use by the Applicants at the liability hearing but was deliberately withheld by them as part of a litigation strategy based on an assessment of risks to the applicants of its disclosure. We have found that it is not in the public interest to allow the applicants to withhold evidence on that basis.

Would it be prejudicial to the public interest to vary or revoke the liability findings against the applicants?

[66] Based on the analysis set out above, we found it would be prejudicial to the public interest to vary or revoke the liability findings against the applicants.

[67] For the foregoing reasons, we denied the applicants' section 171 application.

III. Positions of the parties on sanctions

[68] The executive director seeks the following sanctions in this case:

(a) broad, permanent market prohibitions against all of the respondents,

(b) an order under section 161(1)(g) of the Act that Khorchidian pay to the Commission $7.15 million,

(c) an order under section 161(1)(g) of the Act that Deyrmenjian pay to the Commission $7.14 million, and

(d) an order under section 162 of the Act that each of the respondents pay to the Commission an administrative penalty of $700,000.

[69] EHT and Craven submit that:

(a) an order under section 161(1)(d)(i) of the Act that EHT and Craven resign any position that they hold as a director or officer of an issuer or registrant has no application to either of them,

(b) the other market prohibitions sought by the executive director as against EHT are unnecessary as it is currently in liquidation and, as against Craven, should be limited to five years to proportionately reflect his role in the misconduct in issue, and

(c) any administrative penalty ordered against EHT and Craven should not exceed 20% of any administrative penalty ordered against the other respondents to proportionately reflect their complicity in the misconduct.

[70] Khorchidian submits that:

(a) permanent market prohibitions against him are unnecessary as he is not a registrant or a director or officer of an issuer in British Columbia or elsewhere and is not resident in British Columbia,

(b) an order under section 161(1)(g) is not appropriate as there was no finding that he benefited from profits realized from trading in Kunekt shares in the Virtigo S.A. account or that profits realized in the Dryster Investments Inc. account were from "illegitimate" trades in Kunekt shares (Khorchidian is the beneficial owner of the Virtigo S.A. and Dryster accounts), and

(c) if he is subject to an administrative penalty under section 162, it should be significantly less than the penalty sought by the executive director as, at best, he played a passive role in the Kunekt market manipulation.

[71] Deyrmenjian submits that:

(a) permanent market prohibitions against him are not appropriate as he does not represent a significant risk to capital markets and they are not proportionate to his misconduct,

(b) an order under section 161(1)(g) is not appropriate as there was no finding that he directly or indirectly obtained the profits realized from trading in Kunekt shares in the Eden Ventures Inc. account or that the profits realized in the Sandano Business Corp. account were from "illegitimate" trades in Kunekt shares (Deyrmenjian is the beneficial owner of the Eden Ventures and Sandano accounts), and

(c) given his limited role in the Kunekt market manipulation, the administrative penalty sought by the executive director under section 162 is not warranted and, to the extent he is subject to an administrative penalty, it should be substantially less than the amount sought by the executive director.

IV. Analysis

A. Factors

[72] Orders under sections 161(1) and 162 of the Act are protective and preventative, intended to be exercised to prevent future harm. See *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37.

[73] In *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22, the Commission identified factors relevant to sanction as follows (at page 24):

> 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 the conduct

[74] There is no dispute that a contravention of section 57(a) of the Act is one of the most serious under the Act. In *Re Poonian*, 2015 BCSECCOM 96, the panel said (at paragraph 15):

> 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".

[75] The respondents do not argue the seriousness of a breach of section 57(a) but submit that there is a difference in the seriousness of their misconduct relative to one another.

[76] Khorchidian and Deyrmenjian make separate but similar submissions that their misconduct was limited to a single finding by the panel that they permitted monies to be transferred from accounts beneficially owned by them which were used to fund payment of CFM invoices. They each say that this misconduct, relative to that of the other respondents, is less serious. Khorchidian says that his misconduct did not involve any active role in the market manipulation.

[77] These submissions do not accurately reflect the Findings. We found, with respect to each of Khorchidian and Deyrmenjian, that his misconduct was not tangential to the promotional activity that created the artificial price for the Kunekt shares. We said that such misconduct was directly connected, even fundamental, to the activity.

[78] EHT and Craven submit that their roles were largely indirect and, at best, they served as "enablers" of a promotional marketing scheme planned and executed by others and from which others benefited. They say that this misconduct, relative to the other respondents, is less serious.

[79] Again, these submissions do not accurately reflect the Findings. We found that EHT's actions were not tangential to the misconduct in issue. We said that by paying the first CFM invoice with funds from its own account, EHT directly funded the Kunekt tout sheet marketing campaign. We found that this conduct directly resulted in or contributed to the artificial price for the Kunekt shares.

[80] EHT and Craven argue that there is no express finding that the funds used by EHT to pay the CFM invoice were EHT's own funds. Given that the funds were on deposit in the EHT account, it is reasonable to assume that these funds were EHT's in the absence of evidence to the contrary. We have found that there is no cogent evidence from which a reasonable inference could be made that someone other than the applicants or the EHT group funded payment of the first CFM invoice.

Enrichment and harm suffered by investors

[81] The executive director submits that Khorchidian and Deyrmenjian were enriched by the amount of the net proceeds realized from trading in Kunekt shares during the relevant period in the accounts beneficially owned by them.

[82] In the case of Khorchidian, USD$3.36 million was realized in the Virtigo S.A. account and USD$3.97 million in the Dryster account.

[83] In the case of Deyrmenjian, USD$3.89 million was realized in the Eden Ventures account and USD$3.42 million in the Sandano account.

[84] Khorchidian and Deyrmenjian both submit that they should not be considered enriched by the net trading proceeds realized in the Dryster and Sandano accounts as there was no finding that these trades were "illegitimate".

[85] The legitimacy of the trades is not the issue. The question is whether the trading proceeds in the Dryster and Sandano accounts represent enrichment received by Khorchidian and Deyrmenjian from their misconduct. This is discussed at paragraphs 130 and 131 below.

[86] Khorchidian and Deyrmenjian also both submit that they did not "obtain" the trading proceeds received in the Virtigo S.A and Eden Ventures accounts as they did not benefit from these amounts. This is discussed at paragraphs 132 to 146 below.

[87] We agree with the executive director's submission and find that Khorchidian was enriched in the total amount of USD$7.33 million and Deyrmenjian was enriched in the total amount of USD$7.31 million.

[88] There was no evidence of specific enrichment by either EHT or Craven.

[89] The respondents also submit that there is no evidence that anyone in British Columbia purchased Kunekt shares as a result of the Kunekt tout sheet marketing campaign or that a specific investor suffered harm as a result of the respondents' misconduct.

[90] In circumstances such as these where there is a large scale manipulative trading scheme involving a British Columbia reporting issuer and two British Columbia residents, we are not only concerned about harm to British Columbia investors but to all investors. We are also concerned about the resulting significant adverse effect on the reputation of the British Columbia capital markets.

[91] It is true that we do not have evidence of a specific harm to a specific investor. However, there is no question that the market manipulation relating to the shares of Kunekt, in general, caused significant harm to investors. We have evidence that trading accounts connected to the market manipulation realized approximately USD$18.1 million from trades in Kunekt shares during the relevant period. The Kunekt shares that were sold from these accounts were essentially worthless immediately prior to the misconduct in

issue and were essentially worthless after the misconduct ceased. This represents significant harm to the investing public.

[92] Deyrmenjian points out that the Commission issued a halt trade order for the shares of Kunekt on February 28, 2011 which, together with subsequent halt trade orders, effectively halted trading in Kunekt shares until October 4, 2011.

[93] Deyrmenjian says that, to the extent there has been general harm to investors as a result of the market manipulation, the misconduct which formed the basis for the finding of his section 57(a) contravention took place after the trading in Kunekt shares had been halted. We assume that Deyrmenjian is arguing that his misconduct did not cause harm to investors.

[94] The effect of the halt trade order was to halt trading in Kunekt shares in British Columbia. As there was no prohibition against trading in Kunekt shares in other jurisdictions and the principal trading market for Kunekt shares was in the United States, it cannot be said that there was no harm to investors as a result of Deyrmenjian's misconduct after the date of issue of the order.

[95] Additionally, we agree with the executive director's submission that prophylactic actions of the Commission should not be a factor in determining appropriate sanctions.

Mitigating and aggravating factors; past conduct

[96] There were no mitigating circumstances in this case.

[97] The executive director submits that it is an aggravating factor that EHT was a registrant during the relevant period. He says that EHT prominently noted on its website that "[w]e are regulated by the Swiss Financial Market Supervisory Authority (FINMA)". The executive director states that registrants play a critical role as gatekeepers of our capital markets and EHT abused the privilege of its registration to assist in the misconduct in issue by paying the first three CFM invoices from the EHT account.

[98] EHT was not a registrant under the Act during the relevant period. While EHT may have been regulated by FINMA, this does not equate to being a registrant, nor result in the imposition of the obligations of a registrant under the Act or give rise to a duty to act as a gatekeeper of British Columbia capital markets.

[99] Craven has a history of securities regulatory misconduct.

[100] In 2015, the United States Securities and Exchange Commission (SEC) obtained a judgement against Craven for carrying out a fraudulent "pump and dump" scheme to manipulate the public trading market for American Energy Development Corp. stock in violation of federal securities laws.

[101] Craven was permanently barred from participating in an offering of penny stock and ordered to pay a total of USD$10.24 million to the SEC as follows:

- USD$4,868,135 under a disgorgement order, representing his ill-gotten gains as a result of the conduct alleged in the complaint,
- USD$509,312 in prejudgment interest on the disgorgement amount, and
- USD$4,868,135 as a civil penalty.

[102] None of the other respondents has a history of regulatory misconduct.

Risk to our capital markets; fitness to be a registrant or a director or officer

[103] Participation in our capital markets is a privilege, not a right.

[104] Market manipulations share similarities with fraud in that the underlying conduct of both involve elements of intent and deceit. Those who engage in market manipulation intend to deceive and harm the investing public.

[105] Khorchidian submits that he does not pose any risk to British Columbia capital markets as he is not a registrant or a director or officer of a British Columbia issuer. He also says he does not reside in British Columbia. Neither his current residency (which has not been established) nor his current status as a registrant, director or officer is relevant to an assessment of the ongoing risk he poses to investors and the capital markets.

Specific and general deterrence

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

[107] Our orders must also be proportionate to the misconduct of each of the respondents.

Previous decisions

[108] The executive director provided three previous decisions of this Commission in support of his requested sanctions: *Re Sungro*, 2015 BCSECCOM 281, *Re Poonian*, 2015 BCSECCOM 96 and *Re Lim*, 2017 BCSECCOM 319.

[109] In *Sungro*, three individual respondents were found to have contravened section 57(a) of the Act. In addition, one of the three respondents was found to have made false or misleading statements to a Commission investigator. There was an aggravating factor in that one of the respondents had a history of securities regulatory misconduct.

[110] The panel imposed broad, permanent market prohibitions against each of the respondents. There was also evidence as to the enrichment of two of the respondents relating to the market manipulation. Orders were made against these respondents under section 161(1)(g) of the Act in the amounts of their enrichment. The panel considered each of the respondents to be equally responsible for the misconduct and ordered administrative

penalties (exclusive of any penalties relating to the false and misleading statements) of $700,000 against each of them. The administrative penalty was the amount of the total profits realized relating to the market manipulation.

[111] In *Poonian*, five individual respondents were found to have contravened section 57(a) of the Act. The market manipulation took place over many months, involved a number of nominees and other facilitators and targeted a specific pool of largely unsophisticated and vulnerable investors. An aggregate net trading gain of approximately $7 million was realized in connection with these contraventions.

[112] The panel imposed broad, permanent market prohibitions against each of these respondents. They were also ordered to pay administrative penalties that varied between $10 million (against the mastermind of the scheme) and $1 million. The difference in the amounts of the penalties imposed was to reflect the differences in each of the respondents' contributions to, and responsibility for, the market manipulation.

[113] The panel found that while the respondents' roles in the market manipulation varied, each respondent was directly involved in and contributed to the manipulation. The panel determined that, as a result, it was appropriate to make a single order under section 161(1)(g) in the amount of $7.33 million jointly and severally against all five respondents in the amount of their enrichment.

[114] On appeal, the British Columbia Court of Appeal set aside the section 161(1)(g) orders and remitted the matter back to the Commission to reconsider its disgorgement order based on principles outlined by the Court which are discussed below.

[115] In *Re Lim*, two individual respondents were found to have contravened section 57(a) of the Act. There was an aggravating factor in that one of the respondents was found to have abused his role as registrant to orchestrate an aspect of the market manipulation. Trading accounts connected to the manipulation were beneficiaries of approximately USD$4.8 million derived from the sale of the shares which were the subject of the promotion. However, there was no order made under section 161(1)(g) as there was no evidence as to who beneficially owned the trading accounts used to sell the shares into the promotion.

[116] The panel found that the seriousness of the respondents' misconduct was exacerbated by the extent to which they orchestrated their affairs such that their activities were concealed by the use of offshore accounts and third parties, including trustees and other intermediaries.

[117] The panel imposed broad permanent market prohibitions against each of the respondents and administrative penalties of $800,000 against Lim and $350,000 against the other respondent. The difference in the amounts of the penalties imposed was to reflect the differences in each of the respondent's contributions to, and responsibility for, the market manipulation.

[118] While the magnitude of the market manipulation in *Re Lim* is less than in the case before us and there was no specific evidence relating to enrichment, the circumstances of that case are the most similar to the present one. The same scheme for manipulating the market was used in both cases involving multiple layers of offshore accounts, trustees and other intermediaries as well as a grossly promotional tout sheet campaign. Several of the same persons were involved in both manipulations and the roles they played in both were similar.

C. Analysis of appropriate orders

Market prohibitions

[119] Broad, permanent market prohibitions were issued against the respondents in all of the above-cited cases, regardless of the nature of the role they played in the market manipulation. This is because a contravention of section 57(a) is one of the most serious under the Act. It involves a finding of intent on the part of the respondent and some element of deceit in either creating a misleading appearance of trading activity in, or an artificial price for, a security. This misconduct is completely inconsistent with conduct acceptable for a registrant, director or officer of an issuer, or those otherwise engaged in the capital markets.

[120] In these circumstances, broad, permanent market prohibitions against all of the respondents are necessary and appropriate to protect our capital markets.

[121] Deyrmenjian requests a limited exception to trading prohibitions imposed against him to permit him to trade and purchase securities in an account in his own name through a registrant.

[122] There is no entitlement to an exception to trading prohibitions on the part of a respondent. There must be evidence of the need for the exception and the panel must make a determination that such an exception is not contrary to the public interest.

[123] Deyrmenjian did not provide any evidence of the need for the exception requested.

[124] More importantly, it is not in the public interest that a trading exception be granted in circumstances such as these where the enrichment derived by the respondent from his misconduct was realized through trading activities in accounts beneficially owned by him.

[125] We are not prepared to grant the exception requested.

Section 161(1)(g) orders

[126] The executive director submits that we should make orders under section 161(1)(g) as follows:

(a) in the amount of $7.15 million against Khorchidian, this amount being a "reasonable approximation", taking into account the exchange rate at the time, of the total of the net proceeds from trading in Kunekt shares realized in both the Virtigo S.A. and the Dryster accounts; and

(b) in the amount of $7.14 million against Deyrmenjian, this amount being a "reasonable approximation", taking into account the exchange rate at the time, of the total of the net proceeds from trading in Kunekt shares realized in both the Eden Ventures and the Sandano accounts.

[127] The British Columbia Court of Appeal in *Poonian v. British Columbia Securities Commission*, 2017 BCCA 207, recently adopted a two-step approach to considering applications for orders under section 161(1)(g) (paragraph 144):

> I now turn to apply these principles to the three appeals before this Court. I agree with and adopt the two-step approach identified by Vice Chair Cave in SPYru at paras 131-132:
>
> > [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.

[128] The Court of Appeal in *Poonian* further adopted several principles to apply in interpreting section 161(1)(g) (at paragraph 143):

1. The purpose of s. 161(1)(g) is to deter persons from contravening the *Act* by removing the incentive to contravene, i.e. by ensuring the person does not retain the "benefit" of their wrongdoing.

2. The purpose of s. 161(1)(g) is not to punish the contravener or to compensate the public or victims of the contravention. Those objectives may be achieved through other mechanisms in the *Act*, such as the claims process set up under Part 3 of the *Securities Regulation* or the s.157 compliance proceedings in the *Act*.

3. There is no "profit" notion, and the "amount obtained" does not require the Commission to allow for deductions of expenses, costs, or amounts other persons paid to the Commission. It does, however, permit deductions for amounts returned to the victim(s).

4. The "amount obtained" must be obtained *by that respondent, directly or indirectly*, as a result of the failure to comply with or contravention of the *Act*. This generally prohibits the making of a joint and several order because such an

order would require someone to pay an amount that person did not obtain as a result of that person's contravention.

5. However, a joint and several order may be made where the parties being held jointly and severally liable are under the direction and control of the contravener such that, in fact, the contravener obtained those amounts *indirectly*. Non-exhaustive examples include the use of a corporate *alter ego*, use of other person's accounts, or use of other persons as nominee recipients.

[129] Finally, the Court of Appeal in *Poonian* approved an approach to determining the amounts obtained, directly or indirectly, by a respondent that requires the executive director to provide evidence of an "approximate" amount, following which the burden of proof switches to the respondent to disprove the reasonableness of this number.

Step 1 – Can section 161(1)(g) orders be made?

[130] There is no issue that we could make orders under section 161(1)(g) against Deyrmenjian in the amount of USD$3.42 million with respect to the proceeds realized in the Sandano account and against Khorchidian in the amount of USD$3.97 million with respect to the net trading proceeds realized in the Dryster account.

[131] These trading proceeds were amounts realized from trading Kunekt shares into the artificial price for those shares created by the tout sheet marketing campaign funded, in part, by monies transferred from accounts beneficially owned by Khorchidian and Deyrmenjian. It was their conduct in permitting these transfers that was the basis for our finding that these respondents breached section 57(a) of the Act. Clearly, the trading proceeds in the Dryster and Sandano accounts represent amounts obtained by Khorchidian and Deyrmenjian from their misconduct.

[132] There is an issue as to whether disgorgement orders can be made against these respondents with respect to the trading proceeds in the Virtigo S.A. and Eden Ventures accounts.

[133] There is no question that the proceeds received in these accounts relating to Kunekt shares were amounts realized from trading these shares into the artificial price created by the tout sheet marketing campaign funded, in part, by monies transferred from these accounts beneficially owned by Khorchidian and Deyrmenjian.

[134] However, Khorchidian and Deyrmenjian submit that they did not "obtain" these trading proceeds for the purpose of section 161(1)(g) as they did not benefit from these amounts. They refer to the statement in *Poonian* that the purpose of section 161(1)(g) is to ensure that persons do not retain the "benefit" of their wrongdoing as support for this submission

[135] Khorchidian and Deyrmenjian say that we found that substantially all the net trading proceeds in the accounts were transferred to third parties. They also say that we made a positive finding that no net benefit was realized by either Virtigo S.A. or Eden Ventures from trading in Kunekt shares.

[136] They argue that a disgorgement order would have a penal purpose if it were issued in circumstances such as these where funds simply flowed from one account to another with no evidence as to who authorized the transfers and there are findings that the funds flowed to third parties and no benefit was realized by the respondents from trading in the Kunekt shares.

[137] With respect to Deyrmenjian's and Khorchidian's submissions regarding the lack of evidence that they authorized the transfers, we must examine the circumstances of the transactions. After the transfers from the Virtigo S.A. and Eden Ventures accounts relating to payment of the CFM invoices, the majority of the remaining funds in these accounts were transferred to third parties in a few large transactions. In the case of Eden Ventures, USD$5,225,000 was transferred in a single transaction. In the case of Virtigo S.A., there were two large transfers of USD$850,000 and USD$2,083,000.

[138] In our Findings relating to the transfers which funded payment of the CFM invoices, we found it was not credible that significant sums could be transferred from the Virtigo S.A. and Eden Ventures accounts without the acquiescence of the beneficial holders of the accounts.

[139] The same analysis applies with respect to the subsequent transfers of funds from these accounts to the third parties. It is not credible that large amounts could be transferred from these accounts without the acquiescence of Khorchidian and Deyrmenjian, as applicable.

[140] We do not agree that we made a positive finding for the purposes of section 161(1)(g) that no benefit was received by Virtigo S.A. or Eden Ventures from trading in Kunekt shares. The extracts from paragraph 115 of the Findings cited by Deyrmenjian in support of his submission were part of a discussion regarding whether it could be inferred that Paramount's trades in Kunekt shares were carried out on behalf of Deyrmenjian and Khorchidian. That discussion does not modify our finding in paragraph 66 that there was no evidence that Deyrmenjian and Khorchidian directly or indirectly benefited from the transfers of funds to third parties. Indeed there was simply no evidence as to the reasons for or the purposes of such transfers.

[141] We agree with the executive director that, for the purposes of a section 161(1)(g) analysis, Khorchidian and Deyrmenjian, as beneficial owners, had the "benefit" of the trading proceeds deposited into the Virtigo S.A. and Eden Ventures accounts. Fundamentally, in the absence of any evidence to the contrary, it would be nonsensical to make a finding that the beneficial owners of an account do not receive the benefit of proceeds deposited into that account, as they have rights to the property on deposit.

[142] Khorchidian and Deyrmenjian submit that they did not receive the benefit of the deposited proceeds as these funds were transferred to third parties. The transfer of funds to third parties does not, in and of itself, mean that these respondents did not receive the benefit of the funds. For example, a third party could be a creditor of one of these respondents and the funds were transferred to settle the respondent's debt.

[143] As noted above, there is no evidence as to whether Khorchidian and Deyrmenjian benefited from these third party transfers or not. The question is how to treat the uncertainty created by the lack of evidence as to the relationships between the third parties and these respondents and the nature of the transactions underlying the transfers.

[144] The Court of Appeal in *Poonian* cited with approval (at paragraph 121) the following passage from *Re Samji*, 2015 BCSECCOM 29 at paragraph 42:

> …respondents always bear the responsibility for any uncertainty with respect to the amount retained by them. It is not in the public interest that they benefit from such uncertainty.

As noted in *Poonian*, while the onus of proof is on the executive director to establish that the respondents have obtained an amount and that the amount was obtained as a result of a contravention of the Act, the required standard of proof is not certainty. The executive director must prove a reasonable approximation of the amount obtained. The burden then shifts to the respondents to disprove the reasonableness of this amount.

[145] We find that in establishing that Virtigo S.A., an account beneficially owned by Khorchidian, received USD$3.36 million from trading in Kunekt shares and Eden Ventures, an account beneficially owned by Deyrmenjian, received USD$ 3.89 million, the executive director has proved a reasonable approximation of the amounts received by the respondents as a result of their misconduct.

[146] As outlined by the Court of Appeal in *Poonian*, once the executive director has established a reasonable approximation of the amounts received, the onus shifts to the respondents to disprove the reasonableness of these amounts. The relationships between these respondents and the third parties receiving the transfers, or absence thereof, is clearly within the knowledge of these respondents – as would any evidence supporting their submissions that they did not "obtain" these amounts because they did not receive any benefit. They failed to adduce any evidence supporting their assertion that they did not benefit from these proceeds derived from trading into the artificial price of the Kunekt shares.

[147] We find that we can make orders under section 161(1)(g) of the Act against each of Khorchidian and Deyrmenjian in the total amounts of net proceeds received from trading in Kunekt shares in accounts beneficially owned by them which, in the case of Khorchidian, is $7.15 million and, in the case of Deyrmenjian, is $7.14 million.

Step 2 – Is it in the public interest to make a section 161(1)(1)(g) order?

[148] A breach of section 57(a) of the Act is one of the most serious under the Act. The Kunekt market manipulation involved a complex, opaque scheme employing multiple offshore accounts and trusts and a tout sheet promotional campaign.

[149] We found the misconduct of Khorchidian and Deyrmenjian to be fundamental to the promotional activity that created the artificial price for the Kunekt shares. Accounts beneficially owned by these respondents realized millions of dollars from trading Kunekt shares into that artificial price.

[150] Given the seriousness of Khorchidian's and Deyrmenjian's misconduct and the consequent harm to the public markets, there is no question that it is in the public interest to order that these respondents disgorge the full amount of the net proceeds realized by all of the accounts beneficially owned by them from trading in Kunekt shares.

Administrative penalties

[151] The executive director submits that the misconduct of Khorchidian and Deyrmenjian is most closely aligned with that of Lim in *Re Lim*.

[152] Lim's misconduct was more egregious than that of Khorchidian or Deyrmenjian in that Lim was more actively involved in the market manipulation and Lim was a registrant at the time of the manipulation. However, the more egregious nature of Lim's misconduct must be weighed against the fact that, unlike Lim, there was evidence that accounts beneficially owned by Khorchidian and Deyrmenjian were significantly enriched by net trading proceeds from sales of Kunekt shares.

[153] Khorchidian was more involved in the Kunekt tout sheet marketing campaign than Deyrmenjian. Funding of USD$1,650,000, which represented over 50% of the cost of the campaign, originated from an account beneficially owned by Khorchidian. Additionally, payment of the final CFM invoice was funneled through another account beneficially owned by him.

[154] While trading accounts beneficially owned by Deyrmenjian and Khorchidian were enriched in similar amounts, Deyrmenjian's contributions to the market manipulation were less than Khorchidian's. His misconduct consisted of permitting a single transfer of USD$850,000 to enable the funding of payment of the final CFM invoice.

[155] After considering all the circumstances and the need for specific and general deterrence, we find that appropriate penalties in the light of their respective misconduct for Khorchidian is $850,000 and for Deyrmenjian is $700,000.

[156] The funding EHT provided for the tout sheet marketing campaign was less than that provided by Khorchidian or Deyrmenjian. However, EHT and Craven were more actively involved in the campaign. EHT directly funded payment of the first phase of the campaign and assisted in the concealment of other sources of funding by funneling payment of the second and third CFM invoices through the EHT account.

[157] In reviewing EHT's and Craven's involvement in the tout sheet marketing campaign, we must also consider the fact that there was no evidence of specific enrichment by either of them.

[158] In the circumstances, we consider EHT's and Craven's contributions to the market manipulation to be less significant than those of Khorchidian and comparable to Deyrmenjian's contributions .

[159] The executive director submits that EHT and Craven were far more involved in the Kunekt tout sheet marketing campaign than either Khorchidian or Deyrmenjian. He points to the opening by EHT of the Next Generation account and the communications between Craven and "Brian" using a confidential messaging system regarding the marketing campaign.

[160] It is true that EHT and Craven were involved in many aspects of the promotional campaign. However, many of their activities were administrative tasks carried out in EHT's role as a financial intermediary. We did not find these activities to form part of EHT's misconduct.

[161] EHT submits that the fact it is currently in liquidation is relevant to the assessment of specific deterrence. We agree that the financial circumstances of a respondent must be considered for the purpose of specific deterrence. However, such circumstances have no role with respect to general deterrence.

[162] EHT also says that it has been dissolved and there is no evidence that it could be reinstated easily. It is up to EHT to provide evidence as to the legal consequences of its liquidation if it wishes to make this submission. It has not done so.

[163] Craven's misconduct is exacerbated by his history of regulatory misconduct similar to the case before us.

[164] After considering all the circumstances and the need for specific and general deterrence, we find that appropriate penalties in the light of their respective misconduct for EHT is $700,000 and for Craven is $850,000.

V. Orders

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

Khorchidian

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

(b) Khorchidian is permanently prohibited:

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

(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 investor relations activities;

(c) Khorchidian pay to the Commission $7.15 million pursuant to section 161(1)(g) of the Act; and

(d) Khorchidian pay to the Commission an administrative penalty of $850,000 under section 162 of the Act.

Deyrmenjian

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

(f) Deyrmenjian is permanently prohibited:

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

(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 investor relations activities;

(g) Deyrmenjian pay to the Commission $7.14 million pursuant to section 161(1)(g) of the Act; and

(h) Deyrmenjian pay to the Commission an administrative penalty of $700,000 under section 162 of the Act.

EHT

(i) EHT is permanently prohibited:

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

(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)(iii), from becoming or acting as a registrant or promoter;

(iv) under section 161(1)(d)(iv), from acting in a management or consultative capacity in connection with activities in the securities market; and

(v) under section 161(1)(d)(v), from engaging in investor relations activities;

(j) EuroHelvetia TrustCo. S.A. now known as EHT Corporate Services S.A. pay to the Commission an administrative penalty of $700,000 under section 162 of the Act.

Craven

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

(l) Craven is permanently prohibited:

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

(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 investor relations activities;

(m) Craven pay to the Commission an administrative penalty of $850,000 under section 162 of the Act.

March 11, 2019

For the Commission

Judith Downes
Commissioner

Gordon L. Holloway
Commissioner

Suzanne K. Wiltshire
Commissioner