



Ontario  
Securities  
Commission

Commission des  
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de l'Ontario

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## IN THE MATTER OF CHARLES DEBONO

### STATEMENT OF ALLEGATIONS (Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5)

#### A. OVERVIEW

1. An inter-jurisdictional enforcement order using the expedited procedure for inter-jurisdictional proceedings set out in Rule 11(3) of the Capital Markets Tribunal (the **Tribunal**) *Rules of Procedure and Forms* is sought based on a conviction entered by the Ontario Superior Court of Justice against the Respondent, Charles DeBono (**DeBono**), for defrauding investors of approximately \$29 million.

#### B. FACTS

2. On February 17, 2022, DeBono pleaded guilty to one count of fraud over \$5,000 contrary to section 380(1)(a) of the *Criminal Code* (**Code**) and one count of money laundering contrary to section 462.31(2)(a) of the *Code* before the Honourable Justice M.K. Fuerst. On June 28, 2022, Justice Fuerst sentenced DeBono to imprisonment for 51 months and 19 days, net of pre-sentence custody, on the fraud count, and the same term of imprisonment, to be served concurrently, on the money laundering count. Additionally, the sentence included a restitution order totalling \$26,910,772 and a fine in lieu of forfeiture in the amount of \$26,910,772.

3. DeBono, an Ontario resident, was the owner of Debit Direct Canada (**Debit Direct**), an entity that purported to be in the business of providing point of sale debit terminals to merchants. In fact, Debit Direct was a Ponzi scheme. DeBono has never been registered with the OSC in any capacity.

4. After being solicited by DeBono, investors supplied capital to Debit Direct, whose role was to place debit terminals in businesses. Investors expected to profit from each payment processed through the terminals, making them dependent on the managerial efforts of Debit Direct affecting the success or failure of the enterprise. These were investment contracts. Consequently, DeBono's convictions arose from transactions, business or a course of conduct related to securities.

5. The Tribunal is requested to make an inter-jurisdictional enforcement order reciprocating DeBono's conviction, pursuant to paragraph 1 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990, c S.5, as amended (the **Act**).

6. Justice Fuerst sentenced DeBono based on his admissions as set out in a Statement of Agreed Facts in Support of Guilty Plea, covering misconduct DeBono committed between September 2012 and July 2017. Those admissions include the following:

- (a) DeBono raised between \$40 and \$48 million from investors who contracted to buy point of sale debit terminals from Debit Direct. These transactions involved investment contracts, which are securities under the Act.
- (b) Investors paid approximately \$2,500 to \$3,100 per terminal and then made a return on their investment by receiving \$0.15 per transaction that went through the terminals. Investors received monthly payouts that varied depending on the number of debit terminals they owned and the number of transactions that Debit Direct claimed they registered. DeBono portrayed the company as a "passive business opportunity". The company claimed to take full responsibility for placing the debit terminals at high volume businesses across Canada, as well as all costs and maintenance associated to the debit terminals.
- (c) Despite beginning with approximately 10 terminals, the Debit Direct business turned into a large Ponzi scheme. Debit terminals were never actually placed anywhere, nor did they process any payments. Apart from the initial 10 terminals, there is no evidence that Debit Direct ever owned any others. There is also no evidence that the company maintained, profited or placed any debit terminals with any businesses.

- (d) At least approximately \$10.1 million of the between \$40 and \$48 million raised from investors was used for DeBono's personal use or benefit. Debit Direct used new investors' funds to pay the returns on earlier investors; a forensic accountant estimated payments by Debit Direct to terminal purchasers to range from approximately \$5,864,000 to \$16,962,000. Approximately 515 people contracted to buy point of sale terminals from Debit Direct. The forensic accountant estimated losses to investors to range from approximately \$23,972,000 to \$41,897,000.

7. Justice Fuerst found many aggravating factors, including that:

- (a) DeBono, driven by pure greed, set out to cheat investors from the outset;
- (b) the magnitude of the fraud was extreme and the scheme was sophisticated, involving considerable planning and very deliberate conduct;
- (c) DeBono engaged in other criminal activity to perpetrate the fraud;
- (d) DeBono attempted to destroy evidence and fled to the Dominican Republic when the Ponzi scheme collapsed; and
- (e) DeBono's victims, who did nothing wrong in pursuing what they believed to be an honest investment opportunity, suffered devastating economic losses as well as concomitant detrimental effects on their health and emotional well-being.

8. By contrast, the mitigating factors were few: DeBono pleaded guilty, but only after a trial date had been set; he had no prior criminal record; and he experienced harsher than usual conditions during custody because of the COVID-19 pandemic.

### **C. JURISDICTION OF THE CAPITAL MARKETS TRIBUNAL**

9. Pursuant to paragraph 1 of subsection 127(10) of the Act, DeBono's conviction for offences arising from transactions, business or a course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.

10. It is in the public interest to make one or more preventive and protective orders against DeBono.

#### **D. ORDER SOUGHT**

11. The Tribunal is requested to make the following inter-jurisdictional enforcement order, pursuant to paragraph 1 of subsection 127(10) of the Act:

- (a) against DeBono that:
  - (i) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by DeBono cease permanently;
  - (ii) pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by DeBono be prohibited permanently;
  - (iii) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to DeBono permanently;
  - (iv) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, DeBono resign any positions that he holds as a director or officer of any issuer or registrant, including an investment fund manager;
  - (v) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, DeBono be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant, including an investment fund manager;
  - (vi) pursuant to paragraph 8.5 of subsection 127(1) of the Act, DeBono be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and
- (b) such other order or orders as the Tribunal considers appropriate.

12. These allegations may be amended and further and other allegations may be added as the Tribunal may permit.

**DATED** at Toronto this 18<sup>th</sup> day of October 2023.

**ONTARIO SECURITIES COMMISSION**

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