Ontario

Capital Markets Tribunal | Tribunal des marchés financiers | 22nd Floor 20 Queen Street West Toronto ON M5H 3S8 | 22e étage 20, rue Queen ouest Toronto ON M5H 3S8

Citation: *Kraft (Re)*, 2024 ONCMT 16
Date: 2024-07-02
File No. 2021-32

IN THE MATTER OF
MICHAEL PAUL KRAFT and MICHAEL BRIAN STEIN

REASONS AND DECISION

(Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5)

Adjudicators:	Andrea Burke (chair of the panel) M. Cecilia Williams Sandra Blake	
Hearing:	March 4, 2024; final written submissions received March 22, 2024	
Appearances:	Alvin Qian	For the Ontario Securities Commission
	David A. Hausman Jonathan Wansbrough	For Michael Paul Kraft
	Lawrence Ritchie Marleigh Dick	For Michael Brian Stein

TABLE OF CONTENTS

1. OVERVIEW 1

2. BACKGROUND 2

3. PRELIMINARY ISSUE – CONFIDENTIALITY OF STEIN'S SANCTIONS MATERIALS. 2

4. SANCTIONS AND COSTS ANALYSIS 4

4.1 Introduction 4

4.2 Sanctioning factors 6

4.2.1 Seriousness of the misconduct 6

4.2.2 Respondents' experience in the capital markets 8

4.2.3 Betrayal of trust 9

4.2.4 Effect of sanctions on livelihood of the respondents 10

4.2.5 Mitigating factors 11

4.2.6 Specific and general deterrence 13

4.3 Market participation bans 16

4.3.1 Introduction 16

4.3.2 Kraft 17

4.3.3 Stein 18

4.3.4 Further market participation ban carve-outs are not appropriate 20

4.4 Administrative penalties 22

4.4.1 Introduction 22

4.4.2 Kraft 23

4.4.3 Stein 25

4.5 Disgorgement 26

4.6 Reprimand 26

4.7 Costs 27

5. CONCLUSION 29

REASONS AND DECISION

1. OVERVIEW

[1] In a decision on the merits dated October 20, 2023 (the **Merits Decision**),[1] we found that the respondents breached the *Securities Act*[2] (the ***Act***) – Michael Paul Kraft by engaging in illegal tipping, and Michael Brian Stein by engaging in insider trading.

[2] Kraft, who was the Chairman and director of WeedMD Inc. (**WeedMD**), provided Stein, his long-time friend and business associate, with material non-public information (**MNPI**) in the form of draft documents related to a planned expansion transaction with Perfect Pick Farms Ltd. (**Perfect Pick**), in breach of s. 76(2) of the *Act*. Stein then traded shares of WeedMD while in possession of the MNPI, in breach of s. 76(1) of the *Act*.

[3] The Ontario Securities Commission asks that we impose sanctions against the respondents under s. 127(1) of the *Act*, and that we order them to pay a portion of the Commission's costs of the investigation and this proceeding.

[4] For the reasons set out below, we conclude it is in the public interest to order:

a. with respect to Kraft:

   i. director and officer bans for a period of four years;

   ii. trading bans for a period of three years (with certain carve-outs);

   iii. an administrative penalty of $200,000; and

   iv. costs in the amount of $150,000; and

b. with respect to Stein:

   i. director and officer bans for a period of three years;

   ii. trading bans for a period of four years (with certain carve-outs);

   iii. an administrative penalty of $150,000;

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[1] *Kraft (Re)*, 2023 ONCMT 36

[2] RSO 1990, c S.5

iv. disgorgement of $29,345; and

v. costs in the amount of $50,000.

2. BACKGROUND

[5] The Commission alleged that Kraft tipped Stein on two occasions – once by providing Stein with draft documents related to the Perfect Pick expansion transaction and again by advising Stein of the date of the announcement of the transaction. We found in the Merits Decision that Kraft did indeed tip Stein by providing him with the draft documents but did not find that Kraft advised Stein of the announcement date.

[6] During the merits hearing, Kraft argued that his selective disclosure of the draft documents to Stein was made in the "necessary course of business" (**NCOB**), an exception to the prohibition against illegal tipping. We found that Kraft could not rely on the NCOB exception.

[7] Kraft also brought a challenge to the constitutionality of the tipping provision (s. 76(2)) of the *Act*. We found that s. 76(2) infringes the s. 2(b) freedom of expression right under the *Canadian Charter of Rights and Freedoms* (***Charter***)[3], but the infringement is justified under s. 1 of the *Charter* and dismissed Kraft's challenge.

[8] We also found that Stein traded shares of WeedMD while in the possession of MNPI resulting in a profit of $29,345.

3. PRELIMINARY ISSUE – CONFIDENTIALITY OF STEIN'S SANCTIONS MATERIALS

[9] When he filed his materials for the sanctions and costs hearing, Stein asked that certain portions of his materials be kept confidential and not made available to the public because they included information about his health and personal circumstances.

[10] The Commission took issue with the breadth of the proposed confidentiality redactions.

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[3] *Canadian Charter of Rights and Freedoms* (***Charter***), s.2(b), Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11

[11] We advised the parties that we were prepared to consider Stein's confidentiality request in advance of the hearing. After considering written submissions from Stein and the Commission, we issued an order[4] with reasons to follow. We allowed some, but not all, of the redactions proposed by Stein. These are our reasons for that decision.

[12] Written submissions filed in a proceeding and any document admitted as evidence or relied upon by a panel in making a decision, are adjudicative records. They are available to the public upon request, unless a panel orders otherwise.

[13] Under s. 2(1) of the *Tribunal Adjudicative Records Act, 2019*[5] and rule 22 of the *Capital Markets Tribunal Rules of Procedure and Forms* (the rules that were in place at the time Stein's request was heard and decided), the Tribunal may order that all or part of an adjudicative record be kept confidential and not be disclosed to the public if, among other things, avoiding disclosure of intimate financial or personal matters outweighs adherence to the principle that the record should be available to the public.

[14] Stein submitted that the portions of his materials he asked be kept confidential were limited to highly sensitive information about his health, medical, personal and family circumstances. He submitted that the information was relevant to determining appropriate sanctions and should be considered by the Tribunal.

[15] The Commission did not oppose Stein's request that a doctor's letter contained in Stein's affidavit be treated as confidential because the letter had, in the Commission's view, little bearing on the appropriate sanctions.

[16] The Commission opposed some of the other redactions proposed by Stein because they did not involve particularized details of Stein's personal circumstances and health issues and therefore did not satisfy the requirements set out by the Supreme Court in *Sherman Estate v Donovan,*[6] as adopted in a

[4] (2024) 47 OSCB 1737
[5] SO 2019 c 7, Sched 60
[6] 2021 SCC 25 (***Sherman Estate***)

number of decisions of this Tribunal.[7] *Sherman Estate* requires the person who is seeking a confidentiality order to establish that: court openness poses a serious risk to an important public interest; the order sought is necessary to prevent this serious risk; and the benefits of the order outweigh its negative effects.[8] An individual must establish that there is a serious risk that, without such an exceptional order, the affected individual will suffer an affront to their dignity.[9]

[17] We agreed with the Commission that some of Stein's proposed redactions to his materials were not sufficiently particularized to warrant treating them as confidential. We did not agree with the Commission that information should be treated as confidential simply because it is deemed irrelevant to the issues at hand.

[18] Consistent with the approach taken in other Tribunal decisions,[10] we decided to allow confidentiality redactions to Stein's materials in the public record pertaining to specific symptoms, diagnoses and medical treatment. This approach strikes the appropriate balance between preserving Stein's dignity and the public interest in having open hearings. We ordered Stein to file revised versions of his redacted materials consistent with our ruling in advance of the hearing on March 4, 2024.

4. SANCTIONS AND COSTS ANALYSIS

4.1 Introduction

[19] The Tribunal may impose sanctions under s. 127(1) of the *Act* where it finds it to be in the public interest to do so. The Tribunal's exercise of this jurisdiction must be consistent with the purposes of the *Act*, which include protecting investors from unfair, improper and fraudulent practices, and fostering fair and efficient capital markets and confidence in the capital markets.[11]

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[7] See, for example, *Odorico (Re)*, 2023 ONCMT 34 and *Go-To Development Holdings Inc (Re)*, 2023 ONCMT 44 (***Go-To Development***)

[8] *Sherman Estate* at para 38

[9] *Sherman Estate* at para 35

[10] *Go-To Development* at para 54; *Ali (Re)*, 2023 ONCMT 30 at para 53 and *Odorico (Re)*, 2023 ONCMT 10 at para 43

[11] *Act*, s.1.1

[20] Sanctions are protective and are intended to prevent future harm to investors and to the capital markets.[12]

[21] In this case, the Commission seeks the following sanctions and costs:

a. as against Kraft:

i. 10-year restrictions from participating in the capital markets (with carve-outs);

ii. a $200,000 administrative penalty; and

iii. costs of $150,000; and

b. as against Stein:

i. 8-year restrictions from participating in the capital markets (with similar carve-outs);

ii. a $150,000 administrative penalty;

iii. disgorgement of $29,345; and

iv. costs of $50,000.

[22] Kraft contests all the sanctions the Commission is requesting. He submits that no market participation bans are warranted, proposes a modest administrative penalty of $25,000 and a significant reduction to the proposed costs order.

[23] Stein consents to the disgorgement and costs orders that the Commission has requested. He submits that the market participation bans and administrative penalty sought by the Commission are excessive and proposes shorter market participation bans (and additional carve-outs), an administrative penalty of $50,000 and a reprimand.

[24] Below we address each of the requested sanctions and costs orders in turn. We begin with a discussion of well-established sanctioning factors[13] that apply to the respondents in this case.

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[12] *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 42-43

[13] *Belteco Holdings Inc (Re)*, (1998) 21 OSCB 7743 (***Belteco***) at 7746

[25] In addition to specific and general deterrence, the primary factors raised by the parties for our consideration are the seriousness of the misconduct, the respondents' experience in the marketplace and the impact of the requested sanctions on the respondents' livelihoods. Additionally, we considered the size of the profit earned from the wrongdoing, whether the violations were isolated or recurrent and the Commission's submission that the misconduct involved a betrayal of trust. We also considered potential mitigating factors including whether the respondents accepted responsibility for the misconduct.

4.2 Sanctioning factors

4.2.1 Seriousness of the misconduct

[26] The Tribunal has previously described insider trading as "one of the most serious diseases our capital markets face" and "a cancer that erodes public confidence in the capital markets".[14] Tipping is also generally viewed as "equally reprehensible" as insider trading.[15]

[27] Both tipping and insider trading are recognized as serious threats to the *Act*'s objectives of investor protection and the fostering of fair and efficient capital markets and confidence in them.[16]

[28] Kraft submits that the Commission relies heavily on the seriousness of tipping in general but fails to address the nuances of the single act of selective disclosure in this case. He submits that this case is unlike other tipping cases where respondents' selective disclosure is deliberate, unethical and done for improper personal or professional advantage or to allow friends and family to profit, rather than for a genuine corporate purpose.

[29] In contrast, Kraft submits he was careless on a single occasion. He also submits that he was acting within his authority at WeedMD, there were no prior Tribunal authorities providing guidance on the availability of the NCOB exception, and he had every expectation that Stein would keep the information shared with him confidential.

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[14] *Suman (Re)*, 2012 ONSEC 29 (***Suman***) at para 33

[15] *Suman* at para 32

[16] 2023 ONCMT 4 (***Kitmitto***) at para 14

[30] Stein submits that our finding that he engaged in a single breach of s.76(1) of the *Act* was an isolated set of circumstances for him and we should recognize that the Commission's more serious allegation (namely, that Kraft tipped Stein as to the date and content of the announcement) was dismissed. Stein submits that he did not act maliciously, dishonestly or with any corrupt intention, nor was there any finding that he "deliberately" made use of the MNPI. Further, Kraft did not ask Stein to keep the information confidential and did not give Stein any specific direction about what use he could make of the information. Stein submits his trading while in possession of MNPI was, at worst, ill-advised.

[31] The Commission submits that the respondents have not acknowledged the seriousness of their misconduct and have made several attempts in their submissions to minimize the nature of their misconduct.

[32] The Commission also submits that Kraft's misconduct is not unique or qualitatively different than many other instances of tipping that the Tribunal has addressed in the past. The Merits Decision found that Kraft's disclosure of MNPI was for personal reasons, rather than a genuine corporate purpose. The Commission further submits that intent or deliberate use of MNPI is not a relevant consideration under s. 76(1) of the *Act.*

[33] In line with Tribunal decisions involving tipping and insider trading, we find that the misconduct of both respondents was serious, although we have considered that their violations were isolated acts and the profit Stein earned from his trading was not significant.

[34] We agree that Kraft's misconduct was a single act of tipping and was not motivated by personal or professional advantage or a desire to permit Stein to profit through insider trading.[17] As such, his misconduct was qualitatively different than the misconduct in some other cases involving tipping where the respondents are motivated by personal or professional or other advantage.

[35] We find that Kraft's misconduct was nevertheless serious. Kraft's tip to Stein was deliberate, and not done in error. Kraft did not turn his mind to whether the disclosure was in the necessary course of business. Kraft's misconduct would

[17] Merits Decision at paras 280, 299-300, 305-308 and 312

have been less egregious had he considered whether sharing the information with Stein was in the necessary course of business and made an error rather than the circumstances before us.

[36] That there were no prior Tribunal decisions providing guidance on the NCOB exception is irrelevant, especially given our finding in the Merits Decision that Kraft did not turn his mind to the NCOB exception. Kraft's expectation that Stein would keep the information confidential is also irrelevant.

[37] That Kraft did not ask Stein to keep the tipped information confidential does not diminish the seriousness of Stein's misconduct. Given our finding in the Merits Decision that Stein was likely aware the information about the Perfect Pick expansion was MNPI, we do not accept his submission that he did not "deliberately" use the MNPI. He did trade while in possession of MNPI.

4.2.2 Respondents' experience in the capital markets

[38] The respondents have significant experience in the capital markets.

[39] In addition to his role with WeedMD, Kraft has been a director of several other public issuers. Stein has actively traded stock of public companies for over 30 years and has advised both private and public companies on matters related to acquisitions, divestitures, financings and reorganizations for over 35 years. Stein has been an officer and director of public and private companies.

[40] The Commission submits that given the respondents' significant experience in the capital markets, the respondents knew or ought to have known the wrongful nature of insider tipping and trading.

[41] Kraft submits that his extensive experience in the capital markets should have no bearing on his sanctions because the NCOB exception has never previously been considered by the Tribunal. Had he had the benefit of such guidance, he very likely may have conducted himself differently. We do not find this argument persuasive because, as we note above, we found in the Merits Decision that Kraft never turned his mind to whether the NCOB exception applied to his selective disclosure.

[42] Stein submits that while he is a sophisticated trader of public securities and has served as a corporate director of companies throughout his career, he has never

been a registrant and it is registrants who have been held to a higher standard by the Tribunal.

[43] Neither of the respondents is a registrant. But it is not only registrants who are held to a higher standard. More generally, the Tribunal has found that "more is expected of directors and officers who have superior qualifications, such as experienced businesspeople, and more is expected of inside directors, who have much greater involvement in corporate decision making and much greater access to corporate information".[18]

[44] Both Kraft and Stein stressed their significant experience in the capital markets. Yet, each asks us not to give much weight to that experience when considering their sanctions. We reject that approach. While neither was a registrant, both have significant experience in the capital markets and as such more is expected of them.

[45] Both respondents also emphasize that they have not been found to have contravened securities legislation during their lengthy careers in the capital markets. We do not find this fact to be a mitigating or significant factor. Compliance with the law is expected, particularly from those who are experienced.

4.2.3 Betrayal of trust

[46] Although evidence of a betrayal of trust underlying the misconduct is not one of the enumerated sanctions factors in *Belteco*[19], that list is non-exhaustive. The Commission asks us to consider this as an aggravating factor.

[47] The Commission submits that Kraft held an elevated position of trust when he obtained MNPI in his capacity as Chairman and director of WeedMD and that he betrayed that position of trust by disclosing the MNPI to Stein. Likewise, the Commission submits that by trading in shares of WeedMD while in possession of MNPI, Stein betrayed Kraft's trust in him.

[48] The respondents submit that betrayal of trust was not a finding made in the Merits Decision. Moreover, Kraft submits that the allegation that he breached his

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[18] *Coventree Inc (Re)*, 2011 ONSEC 38 (***Coventree***) at para 769

[19] *Belteco* at 7746

loyalty to WeedMD is without merit as he had every expectation that Stein would keep the information disclosed in confidence.

[49] Stein submits that his position is not analogous to a registrant or a director and officer. He was acting as a friend and business colleague, was not asked to keep the information confidential, and had no relationship with WeedMD.

[50] We did not find a betrayal of trust by Kraft or Stein in the Merits Decision. We are not persuaded that we should do so now.

4.2.4 Effect of sanctions on livelihood of the respondents

[51] Kraft and Stein both submit that the sanctions requested by the Commission, particularly the proposed trading and director and officer bans, would significantly and disproportionately impact them.

[52] Kraft is 60 years old. He has been making a living as a director and officer and consultant to small cap companies. Remuneration for such roles is often in the form of shares in those companies. Kraft submits that the sanctions the Commission seeks would destroy his career.

[53] Stein is 64 years old and is experiencing significant personal, health and family issues, which are limiting his ability to earn a living. In addition to being a consultant, an active trader of public securities and a director of public and private companies for much of his life, he is also a director of his and his children's consulting companies and the director of a company that holds real estate investments and trading accounts for a family trust. He has sole trading authority for that company. Stein submits that the sanctions the Commission seeks would essentially strip him of his ability to earn a livelihood, likely for the remainder of his life.

[54] The Commission submits that neither respondent provided evidence to demonstrate that the Commission's requested sanctions will have a significant impact on their livelihoods. Neither respondent provided evidence about what they are earning from director and officer positions or about other income sources. Therefore, the Commission submits the evidentiary record is insufficient to support conclusions about the impact of the requested sanctions on their livelihoods.

[55] The Commission further submits that it would send the wrong message to impose more lenient sanctions to those occupying privileged positions as directors and officers. Since the misconduct occurred while Kraft was acting in a director and officer role at WeedMD, the sanctions should be greater, rather than lesser.

[56] Neither respondent submits that he is financially unable to pay the sanctions sought by the Commission and therefore ability to pay does not factor into our decision. Rather, their submissions focus on their continued ability to work in the capital markets in a meaningful capacity, as they have done for most of their professional careers. We do recognize that the market participation bans the Commission is seeking will have a significant impact on the respondents who have focused their careers in the capital markets.

4.2.5 Mitigating factors

[57] We have already addressed the respondents' lack of any prior disciplinary history.

[58] As further mitigating factors, both the respondents submit that:

a. they cooperated fully in the Commission's investigation and acted responsibly in the conduct of their defences in this proceeding;

b. they have both acknowledged their misconduct. We took this submission to mean that they have taken responsibility for their misconduct; and

c. they acted responsibly by resigning from positions held as officers and directors and have not taken on any new positions (with one exception for Kraft who has a volunteer director position on a charitable board after making full prior disclosure of this proceeding).

[59] Kraft also submits that the fact that his misconduct was not unethical and did not involve moral turpitude (a grave violation of a community standard) is another mitigating factor.

[60] Stein submits that his significant personal, health and family circumstances have impacted his daily life and are another mitigating factor to consider. They have led to his career taking a back seat and to a significant reduction in his personal

trading. His activity in the capital markets is greatly reduced due to these circumstances.

[61] The Commission submits that we should not attach much, if any, weight to these factors.

[62] Regarding cooperation, the Commission submits that both respondents vigorously defended the allegations made against them. Kraft also added to the complexity of the proceeding by seeking to adduce expert evidence and by bringing a *Charter* challenge that was dismissed. The respondents are entitled to make full answer and defence, but they are not entitled to receive credit for cooperation.

[63] We accept the respondents' submissions that there was regular and constructive communication between them and the Commission throughout the proceeding. However, that is as should be expected. We are not aware of anything out of the ordinary that contributed significantly to the efficiency of the proceeding or that entails behaviour that warrants credit for cooperation. We give this factor little weight in determining sanctions.

[64] Likewise, we give little weight to the fact that both Kraft and Stein have resigned from public director and officer positions. Even if these resignations were voluntary, we find that given the required public disclosure, there is pressure to resign from such positions when faced with allegations of breaches of the *Act.* As a practical matter, allegations of the sort raised in this proceeding against the respondents do most often result in resignations. We do not find the resignations, despite their characterization as voluntary, to be a mitigating factor.

[65] The Commission submits that Kraft's statement in a letter to the Tribunal that "he could have been more careful and put more structure around [the] disclosure" he made to Stein falls short of an acknowledgement of misconduct.

[66] Kraft submits that there is little for him to be contrite about. We find that Kraft's statement in his letter to the Tribunal is not a true acceptance of responsibility or expression of regret for his misconduct, and therefore not a mitigating factor.

[67] Regarding Stein, the Commission submits that his statement recognizing that his decision to trade WeedMD shares was "ill-advised and an error in judgment" rings hollow when considered with the Merits Decision findings.

[68] We are not satisfied that Stein has fully accepted responsibility for his misconduct. His acknowledgment of wrongdoing downplays his serious misconduct to an "error in judgment". It was more than that. We do not find this to be a mitigating factor.

[69] We conclude above that Kraft's misconduct was not motivated by personal or professional advantage or a desire to permit Stein to profit through insider trading. As such, we agree with Kraft's submission that his misconduct was not inherently unethical or based on moral turpitude. While this does not diminish the seriousness of his misconduct, we consider it to be a mitigating factor that we have considered in determining the length of market participation bans.

[70] While we are sympathetic to Stein's difficult personal circumstances, we have not given them any weight as a mitigating factor in sanctions. His personal circumstances arose after the misconduct in question, and it is not suggested that they explain, account for or excuse his misconduct in any way. He also does not submit that his personal circumstances translate into an inability to comply with any sanctions (for example, a financial inability to pay any administrative penalty or cost award).

4.2.6 Specific and general deterrence

4.2.6.a Kraft

[71] Kraft devoted much of his sanctions submissions to what impact, if any, specific and general deterrence should have on sanctions in this case. Kraft submits that the Commission is focused on the violation. It is looking at insider tipping and trading and then a "menu" of sanctions taken from prior cases. In contrast, Kraft submits that in the cases cited by the Commission the conduct differs significantly from the circumstances of this case. Kraft urges the Tribunal to be agnostic as to the nature of the violation, and base sanctions on the conduct.

Kraft submits that, as stated in *Azeff*, it is not appropriate to slavishly follow prior cases and adjust sanctions.[20]

[72] Kraft submits that in this case there is one act of carelessness and no recidivism. There is no indication that he will act this way again. Indeed, he has stated that he will use greater care in the future. Consequently, specific deterrence is not an important factor.

[73] The Commission submits that specific deterrence is an important factor. The Commission submits that it provided Kraft with an opportunity to admit that he was careless during the merits hearing and he would not do so. In fact, at the merits hearing, Kraft's testimony made it clear that he considers himself to be an experienced director and officer in the capital markets and "no one tells [him] what is necessary, [he] make[s] [his] own decisions and [he] make[s] [his] own judgments".

[74] While Kraft has stated that he will use more care when considering selective disclosure in the future, he also stated that there is little here for him to be contrite about. We conclude that specific deterrence is a relevant factor for Kraft as a result.

[75] As for general deterrence, the Commission submits that the Tribunal should take this opportunity to send the general message that directors and officers like Kraft must treat MNPI with the utmost care and only selectively disclose MNPI when necessary. The Commission submits that to send that message the sanctions in this hearing cannot be seen as merely a "cost of doing business".

[76] Kraft submits that given the extensive public attention to the Merits Decision in this matter, and particularly the public interest in its consideration of the NCOB exception, there is no need to send a message to "the street" through sanctions. However, Kraft also submits that conveying MNPI without the required degree of care probably happens more often than we know. Indeed, this case only came to the Tribunal because there was illegal insider trading based on the tip.

[77] We are not persuaded that the public interest in the guidance provided in the Merits Decision about the NCOB exemption negates the need for sanctioning

[20] *Azeff* at para 10

here to achieve general deterrence. As we have noted, Kraft did not turn his mind to whether the exemption was available. The fact that the Tribunal will not tolerate directors' and officers' careless mishandling of MNPI and the fact that such misconduct is serious, is an important message for the street. If Kraft's submission that the careless sharing of MNPI happens every single day is accurate, the need for general deterrence is heightened.

4.2.6.b Stein

[78] Stein submits that because his trading has decreased significantly and he is less focussed on his career, the risk to the capital markets is greatly reduced.

[79] The Commission submits that despite Stein's health challenges and personal circumstances, it is clear he intends to continue trading in securities and act in roles that would continue to give him access to MNPI. Stein requests significant carve-outs to trading and acquisition bans (discussed in more detail below) and he is still engaged in his consulting business to public and private companies. Both activities would pose significant risks of future harm and warrant significant sanctions.

[80] We are satisfied that specific deterrence has an important role in Stein's sanctions. The Tribunal found that Stein likely knew that he possessed MNPI about the Perfect Pick transaction. This raises concerns about his future behaviour.

[81] Regarding general deterrence, Stein submits that our decision can make it clear to the market that limited sanctions are being ordered against Stein because of his unique circumstances and other mitigating circumstances. In other words, that general deterrence should not be a particular focus, because Stein's circumstances are unique. Because he was not found to have acted on a tip on the announcement of the Perfect Pick transaction, he poses less of a risk than someone who deliberately used MNPI for their own benefit.

[82] We do not agree, and we believe that sanctions that will generally deter behaviour such as his are important.

4.3 Market participation bans

4.3.1 Introduction

[83] The Commission asks that we impose orders restricting the respondents' participation in the capital markets to protect investors and the capital markets generally. Specifically, the Commission asks for an order that:

a. trading in any securities or derivatives by Kraft cease for a period of 10-years, and by Stein for a period of 8-years;

b. the acquisition of any securities by Kraft cease for a period of 10-years, and by Stein for a period of 8-years;

c. any exemptions contained in Ontario securities law do not apply to Kraft for 10-years, and to Stein for 8-years;

d. Kraft and Stein resign from any positions they hold as directors or officers of an issuer or registrant;

e. Kraft cease becoming or acting as a director or officer of any issuer or registrant for 10-years, and Stein for a period of 8-years; and

f. Kraft cease becoming or acting as a registrant or as a promoter for a period of 10-years; and Stein for a period of 8-years.

[84] The Commission proposes identical trading ban carve-outs for Kraft and Stein. Both respondents object to the proposed trading and market participation bans – Kraft submitting that no bans are needed, and Stein submitting that a shorter trading ban more limited in scope, with no director and officer bans, is appropriate. Should market participation bans be imposed, both respondents propose various additional carve-outs.

[85] We find that trading bans, director and officer bans, registrant and promoter bans are warranted against the respondents, but for shorter time periods than those proposed by the Commission. We also find that the exemptions under Ontario securities laws should not apply to the respondents. In so finding, we have considered the serious nature of the misconduct. We have also considered the limited market impact of the breach, the circumstances of the respondents, including their ages, the significant effect such bans would have on Kraft's and

Stein's livelihoods, and the fact that Kraft's misconduct was not inherently unethical or based on moral turpitude.

[86] We acknowledge the public interest in tying sanctions closely to the breach and have reflected this principle in determining appropriate market participation bans. We balanced this interest against the fact that participating in the capital markets is a privilege, not a right.[21]

4.3.2 Kraft

[87] The Commission submits that the 10-year market participation bans requested against Kraft are consistent with precedent tipping cases before the Tribunal, including, 10-year bans ordered against Madj Kitmitto in *Kitmitto*[22] and Mitchell Finkelstein in *Azeff*,[23] and permanent bans against Eda Marie Agueci in *Agueci*[24] and Shane Suman in *Suman*.[25]

[88] Kraft submits that no bans are needed in this case to achieve the Tribunal's goals of general and specific deterrence. Kraft takes issue with the specific terms requested by the Commission in its draft order and argues that it only serves to punish him. Alternatively, Kraft submits that if bans were to be imposed, they should be subject to various carve-outs. We address carve-outs separately below.

[89] Kraft further submits that a trading ban is inappropriate because Kraft's misconduct here did not involve any trading and that not imposing a trading ban would be consistent with the approach taken with respondents Cornish and Tai in *Coventree*.

[90] The Tribunal in *Coventree* does not explain why trading bans were not imposed on Cornish and Tai. The reasons merely state that it was not "necessary in the circumstances…in order to protect investors or our capital markets from their future conduct."[26] We distinguish *Coventree*. The substance of the breaches of

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[21] *Glen & Christine Erikson v OSC*, 2003 CanLII 2451 (Div Ct) at para 55
[22] *Kitmitto* at para 39
[23] *Azeff* at para 29
[24] *Agueci (Re)*, 2015 ONSEC 19 (***Agueci***) at para 25
[25] *Suman (Re)*, 2012 ONSEC 29 at para 53(a)
[26] *Coventree* at para 76

the *Act* in that case was the failure to make timely public disclosure of two material changes, and the consequent failure to file the required reports regarding those changes. Cornish and Tai were found to play a significant role in those breaches by authorizing, permitted or acquiescing in Coventree's failures to disclose.

[91] While timely and accurate disclosure is a cornerstone of the regulatory framework, insider tipping is considered one of the most serious breaches of the *Act*. Kraft intentionally tipped Stein about the MNPI. We conclude, having regard to the fact that participation in the capital markets is a privilege and not a right, that notwithstanding that Kraft's breach did not involve any trading, trading bans are necessary to protect the capital markets.

[92] We do not propose further carve-outs from those already proposed by the Commission as set out in our reasons below. Considering Kraft's role in the capital markets and his specific circumstances, we find that a 4-year director and officer ban and a 3-year trading ban are appropriate. We differentiate the length of the director and officer ban from the trading ban to reflect that Kraft's misconduct directly engaged his role as an officer and director. The 4- and 3-year bans appropriately balance the seriousness of Kraft's breach with the mitigating fact that it was one tip that did not involve moral turpitude and the potentially disproportionate impact that lengthier market conduct bans will have on Kraft. The circumstances do not warrant the impact that the Commission's proposed 10-year bans would likely have had.

4.3.3 Stein

[93] The Commission submits that the 8-year market participation bans requested against Stein are consistent with applicable precedents, including, 8-year bans ordered against Trevor Rosborough in *Rosborough (Re),*[27] 10-year bans ordered against Paul Azeff and Korin Bobrow in *Azeff*,[28] 15-year bans ordered against

[27] 2021 ONSEC 20 at paras 6(a) and 20

[28] *Azeff* at para 29

Kimberley Stephany in *Agueci*[29] and permanent bans ordered against Constance Anderson in *Anderson (Re).*[30]

[94] Stein submits that a limited trading and acquisition ban (of no more than two years), subject to certain additional carve-outs is an appropriate, fair and proportionate sanction.

[95] Stein also submits that a director and officer and registrant ban is unwarranted because the misconduct was not carried out in his capacity as an officer or director, and he is not a registrant. In other words, Stein submits that there is an insufficient nexus between these proposed bans and his misconduct. Stein cited a decision of this Tribunal approving the settlement of an insider trading case where no director and officer bans were ordered.[31]

[96] Alternatively, Stein submits that if we are inclined to impose a director and officer ban, it should be subject to further carve-outs and apply for no more than two years. In addition, Stein proposes a "time served" approach to any director and officer bans, *i.e.*, any ban should be deemed to have been effective as of October 2021 when Stein resigned from the directorships of public companies and the date that he was advised that he would require written approval from the TSX if he proposed to have further involvement with exchange-listed issuers.

[97] The Commission submits that the sanctions proposed by Stein are not sufficient and contain broad carve-outs to the trading and acquisition prohibitions that render the prohibitions meaningless. The Commission also submits that Stein's "time served" approach to the director and officer bans should be rejected given the lack of precedent in support and the fact that in practice, it means the ban will have lapsed by the time our sanctions order is even imposed.

[98] As set out in our reasons below, we are not persuaded that further carve-outs for trading are warranted. We also do not accept Stein's submission that a director and officer ban is not warranted. While Stein's misconduct did not directly engage him in his capacity as a director and officer, participation in the

[29] *Agueci* at para 70
[30] (2015) 38 OSCB 4510
[31] *Schloen (Re)*, (2014) 37 OSCB 4157

capital markets is a privilege and not a right. Further, we recognize that any continued role as a director and officer may expose him to MNPI.

[99] We also do not accept Stein's "time served" submission, which would effectively mean that our sanction will have lapsed prior to the sanction being imposed, rendering it meaningless. We find that a 3-year director and officer ban and a 4-year trading ban are appropriate. We differentiate the length of the director and officer ban from the trading ban to reflect that Stein's misconduct directly relates to trading. We conclude that the 3- and 4-year bans are an appropriate balance of the seriousness of Stein's breach and the potentially disproportionate impact that a lengthier ban would have had on his livelihood. The circumstances do not warrant the impact that the Commission's proposed 8-year bans would likely have had.

4.3.4 Further market participation ban carve-outs are not appropriate

[100] The carve-outs proposed by the Commission would allow Kraft and Stein to trade and acquire mutual funds, exchange-traded funds, government bonds and guaranteed investment certificates (**GICs**) in any type of account, and both securities and derivatives in certain registered accounts (*i.e.* RRSP, RRIF and TFSA accounts) in which they are the sole legal and beneficial owners. The proposed carve-outs would not take effect until all monetary sanctions and costs are paid and all the proposed carve-outs are subject to the trades and acquisitions occurring through a registered dealer in Ontario to whom Kraft and Stein must have given a copy of our order.

[101] Kraft submits that the Commission's requested trading bans are overly broad or harsh because they capture securities of private companies including personal holding companies, securities of reporting issuers of which Kraft is not an insider, securities acquired by Kraft as part of an employee stock option plan, and all exemptions under Ontario securities law without a basis for the wide scope. He submits that the other proposed bans are overbroad because they extend to all issuers, rather than reporting issuers, which he submits is inconsistent with precedent orders and activities as a promoter, because that can capture a broad scope of activities in relation to any company.

[102] The additional carve-outs proposed by Kraft are:

a. that trading and acquisition restrictions be limited to securities of reporting issuers of which he is not an insider,

b. that he should also be permitted to trade (in accordance with an automatic securities disposition plan) and acquire securities from employee stock option and other similar plans awarded as compensation to him for consulting and other services,

c. that he should be permitted to avail himself of any exemptions contained in Ontario securities laws,

d. that any director and officer ban should only apply to reporting issuers and also should exclude a single reporting issuer that he previously founded, and

e. there should not be a promoter ban.

[103] Stein submits that he should be permitted to continue to direct trading for a private company that is owned by a family trust of which he is one of the trustees and beneficiaries. More specifically, Stein wants to be permitted without restriction to direct the acquisition and sale by the company of investments that are not shares of reporting issuers, and he wants to be able to direct the company's sale of shares of reporting issuers with the Commission's prior consent. He submits that there is no danger of such activity involving MNPI. He also wants no restriction on his ability to sell shares held in any account for a period of 30 days after our sanctions decision is issued. Stein also submits that GICs are not securities and further seeks an additional carve-out for trading and acquiring GICs, such that this would not have to be done through a registered dealer.

[104] The Commission submits that the carve-outs it has proposed are generous. The Commission submits that Kraft's proposed additional carve-outs all amount to attempts to continue the privilege of participating in the capital markets and that, as is evident from past cases, the Tribunal frequently takes away such privilege in cases of insider trading and tipping. The Commission also submits that the breadth of Stein's requested carve-outs are unprecedented and would

make any trading and acquisition ban effectively meaningless. The Commission also objects to Stein's proposal that the Commission could pre-screen trades in shares of reporting issuers.

[105] We are not persuaded that further carve-outs for trading are warranted for either Kraft or Stein. Nor are we persuaded that Kraft's additional proposed carve-outs around exemptions under Ontario securities laws, and director and officer and promoter bans are appropriate. We received no submissions about the practical outcome of the various additional proposed carve-outs which go beyond precedent orders in other insider tipping and trading cases. It is not possible for us to foresee all the unintended consequences of the respondents' additional proposed carve-outs. For example, a private issuer may enter into a merger and acquisition agreement with a public company, resulting in exposure to MNPI. Many of Kraft's submissions raised issues about the nature and scope of carve-outs. Without more robust submissions and evidence about the practical impact of the proposals we are not persuaded they are appropriate.

[106] We find that the scope of both respondents' requested carve-outs would render the trading ban meaningless. We are also not prepared to make an order, over the Commission's objection, requiring it to review and pre-screen trades as Stein proposes. Significant time has passed to allow Stein to make alternative arrangements for trading in the accounts of the private company that is owned by his family trust. We are also not inclined to grant Stein's request for an additional 30 days from the date of our order before the trading ban becomes operative. Stein has had sufficient time to put his affairs in order. Stein provided no authority for his submission that GICs are not securities and we are not prepared to exclude GICs from the order.

4.4 Administrative penalties

4.4.1 Introduction

[107] The Commission seeks administrative penalties of $200,000 against Kraft and $150,000 against Stein.

[108] Paragraph 9 of s. 127(1) of the *Act* provides that if a person or company has not complied with Ontario securities law, the Tribunal may require the person or

company to pay an administrative penalty of not more than $1 million for each failure to comply.

[109] There is no formula for determining the quantum of an administrative penalty. Factors to consider in determining an appropriate administrative penalty include: the seriousness of the misconduct; whether there were multiple or repeated breaches of the *Act*; whether the respondent realized any profit because of their misconduct; the level of administrative penalties imposed in other cases; and the past and present circumstances of the respondent.[32]

[110] When ordering administrative penalties, the Tribunal must take care to avoid amounts that are so low that they may be viewed as a cost of doing business or a licence fee for unscrupulous market participants.[33]

[111] The Commission submits we should follow the approach taken by the Tribunal in *Kitmitto* where there was a presumption of a $200,000 administrative penalty per breach with adjustments made to reflect the seriousness of the conduct, the conduct of one respondent relative to other respondents, and any aggravating or mitigating factors.[34]

[112] The Commission submits that a presumption of $200,000 per breach reflects the seriousness of insider trading and tipping and the harm that they cause to investors and the capital markets and sends a clear message that such conduct will not be tolerated in Ontario.

[113] Both Kraft and Stein submit that the Commission's requested administrative penalties are excessive and not in the public interest.

4.4.2 Kraft

[114] In addition to being consistent with the standard set in *Kitmitto*, the Commission submits that $200,000 is an appropriate administrative penalty for Kraft, who engaged in one instance of tipping, on account of his significant experience in the capital markets, and the fact that he abused his position of trust as the Chairman and a director of WeedMD in tipping Stein.

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[32] *Azeff* at para 33

[33] *Azeff* at para 20

[34] *Kitmitto* at paras 28-30

[115] Kraft submits that, if found necessary to achieve general deterrence, a modest administrative penalty of $25,000 is more appropriate than the $200,000 penalty proposed by the Commission. Kraft characterizes his misconduct as unique or that it was qualitatively different from other tipping cases because he did not act in bad faith or with ill-intent. He seeks to rely on *Air Canada (Re),*[35] a settlement before the Tribunal, and a British Columbia Securities Commission (**BCSC**) case, *Stock Social Inc.*[36] in support of his position. While Kraft's submissions regarding these decisions extended more generally to the appropriate approach to both market participation bans and administrative penalties, we address these submissions here.

[116] Kraft submits that *Air Canada* is important and unique because it is the only tipping case decided in Ontario in the past twenty years that did not involve the disclosure of MNPI for improper personal or professional gain or advantage or to allow friends and relatives to profit. Kraft submits that it is therefore the only relevant authority in the tipping context for appropriate sanctions here where there was no improper motive for the tipping. Kraft submits that because Air Canada is a large reporting issuer and the case resulted in a settlement it is difficult to scale the sanctions that were ordered in *Air Canada* to Kraft's circumstances, but that the take-away should be that the sanctions ordered in *Air Canada* were not especially onerous.

[117] Kraft submits that *Stock Social Inc.* should also inform sanctions here. It is a case where the BCSC determined that only a modest monetary penalty of $25,000 was appropriate to achieve general deterrence, because the conduct in that case (namely, conduct that engaged conflict of interest disclosure issues) did not involve any deliberate flouting of securities law and did not engage a need for specific deterrence.

[118] We distinguish both above cases. *Air Canada* is a settlement involving a corporate respondent, not an individual. The decision did not find a breach of Ontario securities law, but instead involved admissions of conduct contrary to the public interest. Notably, while Air Canada's submissions included reference to

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[35] (2001) 24 OSCB 4697

[36] *Stock Social Inc. (Re)*, 2023 BCSECCOM 372

the fact that the activity did not occur for personal gain, it is not evident from the Tribunal's reasons for approving the settlement that the lack of improper motive played the significant role in that decision that Kraft says it did. *Stock Social* is not an insider trading or tipping case, and, in any event, we have already found that specific deterrence is an important consideration here.

[119] We find that an administrative penalty of $200,000 is appropriate. Although we have not found that he betrayed his position of trust, because Kraft was the recipient of inside information through his position as Chairman of WeedMD, a higher administrative penalty than for Stein is warranted. While there is no formula for determining an administrative penalty, we find that consistency with the approach in *Kitmitto*, having regard to contextual factors, ensures fairness and reinforces the seriousness of insider trading and tipping. Furthermore, we have already taken into account Kraft's motives in setting the length of the market participation bans.

4.4.3 Stein

[120] The Commission submits that $150,000 is an appropriate administrative penalty for Stein, who engaged in one instance of insider trading, on account of his significant experience in the capital markets, the fact that he betrayed Kraft's trust, and that his conduct falls below what one would reasonably expect of someone who has been consulting and advising issuers for decades.

[121] The Commission proposes $150,000 rather than $200,000 to reflect a downward adjustment on account of the smaller market impact arising from Stein's misconduct relative to that of the respondents in *Kitmitto*. The Commission submits it is also consistent with the $150,000 per breach approach taken in *Azeff*[37] and the sanctions ordered against the respondent Christopher Candusso in *Kitmitto*.[38]

[122] Stein submits that an administrative penalty of $50,000 is appropriate and considers Stein's age and ability to earn a livelihood, personal challenges, the Tribunal's findings, and takes into account comparable precedents, particularly

[37] *Azeff* at paras 21 and 41

[38] *Kitmitto* at para 58

the administrative penalties imposed by the Tribunal against Stephany in *Agueci (Re)*[39] and Taylor Carr in *Rosborough (Re).*[40]

[123] We find that an administrative penalty of $150,000 is appropriate. *Kitmitto* stands for the proposition that insider tipping and trading is a serious breach and that there is sufficient leeway to consider contextual factors while ensuring consistency and fairness in deciding appropriate sanctions.

[124] We differentiate *Rosborough* as Carr had no experience in the capital markets and unlike Stein, there was no evidence that Carr was an active trader who would be inclined to engage in further trading. Regarding *Agueci*, we note that the decision is approximately 10 years old and administrative penalties have trended upwards through the passage of time. Additionally, in *Agueci,* the respondent Stephany was found to have a limited ability to pay. Stein did not raise impecuniosity as a factor in determining sanctions.

4.5 Disgorgement

[125] The Commission requests a disgorgement order against Stein in the amount of $29,345, being the profit that Stein earned from insider trading. Such an order is authorized by paragraph 10 of s. 127(1) of the *Act*.

[126] Stein does not oppose the Commission's request and submits that the sanction is appropriate. It is in the public interest to make this disgorgement order against Stein.

4.6 Reprimand

[127] Stein submits that a reprimand would be an appropriate sanction in this case, despite the Commission not requesting such a sanction.

[128] The Commission advised us that it does not oppose the imposition of a reprimand against Stein, however, it submits that a reprimand on its own is not sufficient and does not warrant a reduction of any of the other sanctions requested.

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[39] 2015 ONSEC 19 at para 73

[40] 2023 ONCMT 2 at para 45

[129] We are not persuaded that a reprimand is necessary in these circumstances. We conclude that the sanctions we are ordering against Stein are sufficient for specific and general deterrence, reflect the seriousness of his offence, take into consideration his personal circumstances to an appropriate extent and are proportionate in the circumstances.

4.7 Costs

[130] Section 127.1 of the *Act* authorizes the Tribunal to order a respondent to pay the costs of an investigation and of the proceeding that follows if the respondent has been found to have contravened Ontario securities law. A costs order is designed to reduce the burden on market participants to pay for investigations and enforcement proceedings and is not punitive.[41]

[131] The Commission seeks costs of $150,000 against Kraft, and $50,000 against Stein. The merits hearing occurred over 10 days. The total costs incurred were apportioned among the respondents to reflect their contribution to the complexity and length of the investigation and hearing (60% to Kraft and 40% to Stein).

[132] The costs sought represent a discount from the total costs incurred of approximately 43% for Kraft, and 55% for Stein. The discounts were applied to account for the allegations that were not proved at the merits hearing.

[133] Kraft takes issue with the amount claimed by way of disbursement to a lawyer from the firm Heinen Hutchison Robitaille LLP, who was retained by the Commission during the merits hearing to respond to Kraft's *Charter* challenge and who attended the merits hearing in its entirety. Kraft does not dispute the number of hours the lawyer devoted to the hearing but submits that the rate of $725 per hour is unreasonable.

[134] Kraft submits that it is within the reasonable expectations of respondents that enforcement counsel would be able to address all relevant legal issues and when it is necessary to retain outside counsel, that the rate applied to that counsel match the rate applied to internal counsel ($205 an hour). Kraft therefore submits that the disbursement for external counsel fees should be reduced from

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[41] *Solar Income Fund* at para 166

$91,739.00 to $30,902.11 and then the 43% reduction should be applied, resulting in a maximum cost award of $115,594.96.

[135] Kraft submits that in *Paramount (Re)*[42] and *Solar Income Fund Inc (Re)*[43] the Commission reduced external counsel fees to match the hourly rate attributed to internal counsel of the Commission. Kraft submits that the Tribunal should exercise its discretion to similarly reduce the hourly rate of external counsel in this case.

[136] The Commission submits that it was reasonable to retain external counsel with expertise in constitutional law to respond to Kraft's *Charter* challenge, which raised novel issues argued for the first time in Canada and was ultimately unsuccessful. The Commission further submits that an hourly rate limit on external counsel retainers of $205 would discourage the Commission from seeking its counsel of choice in pursuit of its public interest mandate.

[137] The Commission notes the 43% discount already applied to the costs sought against Kraft to support the reasonableness of its request as a whole.

[138] We find that there is nothing precluding the Commission from retaining its choice of external counsel to assist with proceedings, especially where that counsel has specific necessary expertise, and that there is nothing express in the *Act* or otherwise that imposes a cap on external counsel fees that can be claimed. Costs awards are within the Tribunal's discretion and the overall reasonableness of fees and disbursements, having regard to the complexity of the matter, length of proceedings and other relevant factors is what matters. We are reluctant to impose any arbitrary or fixed cap on fees or disbursements that can be claimed by the Commission through our decision-making. In this case, we find that the 43% reduction to costs already applied by the Commission is reasonable in the circumstances. We also find the costs incurred and claimed as against Kraft, given the length and complexity of the matter are not unreasonable. We therefore do not order a reduction in the amount of costs attributed to Kraft and

[42] 2023 ONCMT 20 at para 128

[43] 2023 ONCMT 3 at para 165(a)

we find it to be in the public interest to order Kraft to pay costs in the amount sought by the Commission.

[139] Stein does not take issue with the amount of costs sought against him and submits it is not unreasonable in the circumstances. We agree and find it is in the public interest to make the order.

5. CONCLUSION

[140] The sanctions we have set out above are proportionate to the misconduct in this case and appropriate when considered together in the context of each respondent. They ensure that Stein does not profit from his misconduct and are tailored to the respondents to effect both general and specific deterrence.

[141] For the reasons set out above, we shall issue an order that provides:

a. with respect to Kraft:

i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Kraft shall cease for a period of three years from the date of the order, except that Kraft shall be permitted to trade:

(i) mutual funds, exchange-traded funds, government bonds, and GICs;

(ii) securities or derivatives for the account of any registered retirement savings plan (**RRSP**), registered retirement income fund (**RRIF**) and tax-free savings account (**TFSA**), as defined in the *Income Tax Act*, RSC 1985, c 1 (5th Supp), (the ***Income Tax Act***), in which Kraft has sole legal and beneficial ownership;

(iii) solely through a registered dealer in Ontario, to whom Kraft must have given a copy of the order; and

(iv) only after the amounts in subparagraphs vii and viii have been paid in full;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Kraft is prohibited for a period of

three years from the date of this order, except that Kraft shall be permitted to acquire:

(i) mutual funds, exchange-traded funds, government bonds, and GICs;

(ii) securities for the account of any RRSP, RRIF, and TFSA, as defined in the *Income Tax Act*, in which Kraft has sole legal and beneficial ownership;

(iii) solely through a registered dealer in Ontario, to whom Kraft must have given a copy of the order; and

(iv) only after the amounts in subparagraphs vii and viii have been paid in full;

iii. pursuant to paragraph 3 of subsection 127(1) of the *Act*, any exemptions contained in Ontario securities law do not apply to Kraft for a period of three years from the date of the order;

iv. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the *Act*, Kraft shall immediately resign any positions that he holds as a director or officer of an issuer or registrant;

v. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the *Act*, Kraft is prohibited from becoming or acting as a director or officer of any issuer or registrant for a period of four years from the date of the order;

vi. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Kraft is prohibited from becoming or acting as a registrant or as a promoter for a period of four years from the date of the order;

vii. pursuant to paragraph 9 of subsection 127(1) of the *Act*, Kraft shall pay an administrative penalty in the amount of $200,000 to the Commission; and

viii. pursuant to section 127.1 of the *Act*, Kraft shall pay to the Commission $150,000, for the costs of the investigation and hearing; and

b. with respect to Stein:

i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Stein shall cease for a period of four years, except that Stein shall be permitted to trade:

(i) mutual funds, exchange-traded funds, government bonds, and GICs;

(ii) securities or derivatives for the account of any RRSP, RRIF, and TFSA, as defined in the *Income Tax Act*, in which Stein has sole legal and beneficial ownership;

(iii) solely through a registered dealer in Ontario, to whom Stein must have given a copy of the order; and

(iv) only after the amounts in subparagraphs vii through ix have been paid in full;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Stein is prohibited for a period of four years, except that Stein shall be permitted to acquire:

(i) mutual funds, exchange-traded funds, government bonds, and GICs;

(ii) securities for the account of any RRSP, RRIF, and TFSA, as defined in the *Income Tax Act*, in which Stein has sole legal and beneficial ownership;

(iii) solely through a registered dealer in Ontario, to whom Stein must have given a copy of this order; and

(iv) only after the amounts in subparagraphs vii through ix have been paid in full;

iii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Stein for a period of four years from the date of the order;

iv. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Stein shall immediately resign any positions that he holds as a director or officer of an issuer or registrant;

v. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Stein is prohibited from becoming or acting as a director or officer of any issuer or registrant for a period of three years from the date of the order;

vi. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Stein is prohibited from becoming or acting as a registrant or as a promoter for a period of three years from the date of the order;

vii. pursuant to paragraph 9 of subsection 127(1) of the Act, Stein shall pay an administrative penalty of $150,000 to the Commission;

viii. pursuant to paragraph 10 of subsection 127(1) of the Act, Stein shall disgorge to the Commission the amount of $29,345; and

ix. pursuant to section 127.1 of the Act, Stein shall pay to the Commission $50,000, for the costs of the investigation and proceeding.

Dated at Toronto this 2nd day of July, 2024

"Andrea Burke"

Andrea Burke

"M. Cecilia Williams"

M. Cecilia Williams

"Sandra Blake"

Sandra Blake