ALBERTA SECURITIES COMMISSION

DECISION

Citation: Re Lackan, 2024 ABASC 186 **Date: 20241202**

Paul Lackan

Panel:	Kari Horn, K.C. Tom Cotter James Oosterbaan
Representation:	Amanda Goodwin Tom McCartney for Commission Staff Paul Lackan for himself
Submissions Completed:	October 31, 2024
Decision:	December 2, 2024

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I. INTRODUCTION

[1] Paul Lackan (**Lackan**) perpetrated a fraud on investors, contrary to s. 93(1)(b) of the *Securities Act* (Alberta) (the **Act**). The facts and findings of misconduct are set out in a June 10, 2024 decision (the **Merits Decision**, cited as *Re Lackan*, 2024 ABASC 103) of this Alberta Securities Commission (the **ASC**) panel. Briefly, we found that Lackan raised $153,500 between July 1, 2018 and December 31, 2020 (the **Relevant Period**). Lackan told the investors their money would be used to acquire or invest in ACT Medical Centres Inc. (**ACT**). However, Lackan perpetrated a fraud on those investors by instead spending at least $115,378 of the $153,500 for his own purposes, not for the purchase or attempted purchase of ACT.

[2] After issuance of the Merits Decision, this proceeding moved into a second phase (the **Sanction Hearing**) for the determination of any appropriate orders for sanction and cost recovery. In early July 2024, ASC staff (**Staff**) noted that Lackan responded to their proposed timeline for written and oral submissions by stating that he considered it to be reasonable and intended to make submissions on sanction. The final schedule for the parties to provide written and (if needed) oral submissions was sent to the parties by the ASC Registrar (the **Registrar**). However, Lackan did not provide written submissions, tender evidence relating to sanction, express an intention to attend for oral submissions, ask for extensions of any timelines, or attend for oral submissions. Staff made written submissions, oral submissions, and supplemental written submissions (the last solely on cost recovery). Staff also tendered a July 17, 2024 affidavit relating to Lackan's financial circumstances (the **Staff Affidavit**). We considered the Staff Affidavit in conjunction with the evidence from the first phase of the proceeding (the **Merits Hearing**; together with the Sanction Hearing, the **Hearing**). Staff also provided an original and an amended bill of costs summarizing time and disbursement costs during the investigation (the **Investigation**) and Hearing, as discussed below in our cost-recovery determination.

[3] For the reasons given here, we are ordering permanent market-access bans and $175,378 in monetary sanctions against Lackan. We are also ordering Lackan to pay to the ASC $47,009 toward the costs of the Investigation and Hearing.

II. BACKGROUND

[4] The detailed facts about Lackan and his activities are set out in the Merits Decision, along with our findings. We provide a summary here.

[5] Lackan raised $153,500 during the Relevant Period from eight investors, several of whom testified. Lackan's background was bookkeeping and accounting work through Paul Lackan Consulting Inc. (**Lackan Consulting**). During the Relevant Period, Lackan also owned C.A.M.P. Ltd. (**CAMP**), a company in the addiction recovery field. At least four investors were Lackan's long-term bookkeeping clients. He told investors the money would be used to acquire or invest in ACT, another company in the addiction recovery field. Alex Wylie (**Wylie**) had been the sole director of ACT from its incorporation on January 16, 2017, and he (or his company, Ranchland Capital Corp.) had been the sole shareholder of ACT. Lackan did not succeed in purchasing ACT, and Wylie sold ACT to Levitee Labs Inc. on July 28, 2021 for over $5 million.

[6] Lackan provided information about ACT to investors before and shortly after they invested, much of which had been given to Lackan by Wylie in the course of Lackan's attempts to buy ACT

from Wylie over several years. We were satisfied that Lackan's possession and distribution of that ACT information confirmed to investors Lackan's story that he had purchased – or would imminently purchase – ACT and that he was using their money to acquire or invest in ACT. Lackan also inaccurately told at least some of the investors that he already had a position with, or interest in, ACT and that CAMP was the predecessor company of ACT. After he had investors' money and they sought information or a return of their money, Lackan typically made non-credible excuses or avoided them.

[7] Although he told investors they were investing in ACT and some were told they would receive certificates for ACT Shares (the **ACT Shares**), they did not receive such certificates. Instead, months later, Lackan prepared and gave to some investors falsified certificates for 1495516 Alberta Ltd. shares (respectively, **149** and the **149 Shares**). Lackan falsified the 149 Share certificates by modifying the sole 149 Share certificate in the minute book of 149 and using the signature from that original certificate. The signature was that of a person who had not been involved with 149 since incorporating it in 2009 and selling it to Lackan, ostensibly for Emery Ostrosky (**Ostrosky**), with whom Lackan had a long-term family and business connection. Ostrosky was listed as the sole director and shareholder of 149 in 2009 and throughout the Relevant Period, although 149 was struck from the corporate registry on April 2, 2018. Lackan was not a director, officer, or shareholder of 149, but arranged for Ostrosky's purchase of 149 and had signing authority for its bank account (the **149 Account**). Investors also made their payments to 149, which Lackan deposited into the 149 Account.

[8] Lackan did not testify at the Merits Hearing and participated very little in the entire proceeding. When he did participate, he represented himself. Lackan was interviewed by Staff investigators on April 12, 2021 and April 14, 2022, and the transcripts from those interviews (the **Lackan Transcripts**) were in evidence. As stated in the Merits Decision, we were satisfied that this proceeding involving Lackan was conducted fairly throughout the Investigation, and before and during the Merits Hearing. Although Lackan chose not to be involved in the Sanction Hearing, as noted above, he was aware of the relevant dates. We were informed by the ASC Clerk that Lackan had been sent remote access information to participate in the oral submissions session. We are satisfied that the Sanction Hearing was conducted fairly. We also address in this decision submissions which Lackan may have made.

[9] In the Lackan Transcripts, Lackan acknowledged spending most or all of the investors' money on personal expenses or on business expenses unrelated to ACT. He claimed that he told investors their money would be used for due diligence, salaries, overhead, and operations. He told the investigators that 149 was his only source of income during the years he was trying to acquire ACT and that he was finding others to pay the purchase price of ACT. Lackan's explanations were inconsistent even within the Lackan Transcripts – for example, he described taking the money as a salary, as part salary and part loan, or directly paying his personal expenses from the 149 Account. The source and use analysis prepared by a Staff investigator clearly showed the majority of investor money deposited to the 149 Account being used almost immediately by Lackan to pay expenses unrelated to acquiring or investing in ACT.

[10] We concluded in the Merits Decision that Lackan never intended to use investors' money for ACT. He knew he was going to spend much of their money for his own purposes, unconnected

to ACT. He did not tell investors his true intentions, including that he considered their money to be his salary – convincing them instead that he would use their money to acquire or invest in ACT. He also gave several investors falsified share certificates for a different company and told at least some investors that he had (or soon would have) a position with ACT, which would become a public company.

[11] We found, therefore, that Lackan perpetrated a fraud. He deliberately and knowingly purported to sell ACT Shares to investors, lied to them, and put their pecuniary interests at risk. It was evident that the investors' $153,500 was gone, with at least $115,378 spent by Lackan for purposes he did not disclose to the investors. Because Lackan lied to the investors about using their money for ACT and instead used their money for non-ACT purposes, it was irrelevant to Staff's allegation and our finding of fraud that Lackan consistently claimed that he intended to buy ACT, that he had been in discussions with Wylie for several years, and that he and Wylie had reached an agreement for the sale of ACT to Lackan (we also found that there was never a definitive agreement).

III. ANALYSIS: SANCTION

A. Parties' Positions on Sanction

1. Staff's Position

[12] Staff sought the following sanction orders:

- an array of permanent market-access bans;
- a disgorgement payment of $115,378; and
- an administrative penalty payment of $60,000.

2. Lackan's Position

[13] Lackan did not make any submissions. We assume he would have argued against significant sanctions, perhaps claiming that he was trying to help people, did not do anything wrong, and any wrongs he committed were based on the advice he received from others. He might have submitted that the amount we found he misappropriated was relatively low. We also consider it likely he would have contended that he was unable to pay any monetary amounts.

B. The Law

1. Statutory Provisions

[14] As discussed further below, possible sanction orders are set out in ss. 198(1) (market-access bans and disgorgement) and 199 (administrative penalty) of the Act.

2. Sanctioning Rationale and Principles

[15] Our public interest mandate for sanctioning misconduct requires a consideration of the protection of investors and the fostering of a fair and efficient capital market. Court decisions have set the scope and purpose of those sanctioning powers: protective and preventive, not punitive or remedial (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37 at paras. 39-45); proportionate and reasonable (*Walton v. Alberta (Securities Commission)*, 2014 ABCA 273 at para. 154 (leave to appeal dismissed,

[2014] S.C.C.A. No. 476)); and considering both specific and general deterrence (*Walton* at para. 154; and see *Re Cartaway Resources Corp.*, 2004 SCC 26 at paras. 52-62).

[16] The type and extent of deterrence required in a particular case depend primarily on the future risk posed by the respondent (specific deterrence) and by others tempted to engage in similar misconduct (general deterrence). This is assessed by examining the various factors discussed below. ASC panels must also be mindful of the statements by the Alberta Court of Appeal in *Walton* that "general deterrence does not warrant imposing a crushing or unfit sanction on" a respondent and that an administrative penalty under s. 199 of the Act must "be proportionate to the offence, and fit and proper for the individual offender" (at paras. 154 and 156).

[17] Proportionality is also assessed through an appropriate consideration of other decisions by ASC panels and of any relevant settlement agreements. We discuss other decisions below, while recognizing that their utility may be limited when the contraventions and factual circumstances are not exactly the same.

[18] In some situations, a respondent's claimed impecuniosity may result in a decreased monetary sanction if the otherwise-appropriate amount for general deterrence purposes would be unfair given the respondent's financial circumstances. The Staff Affidavit was convincing evidence that Lackan's financial situation was dire as of the June 2024 search dates and before. As Lackan did not participate in the Sanction Hearing, he did not take that opportunity to discuss impecuniosity or constrained financial circumstances. The Lackan Transcripts showed him claiming that he needed to use investors' money for his own expenses because he had no other source of income at that time. Lackan's financial circumstances are addressed below in our discussion of his characteristics and history.

3. Sanctioning Factors

(a) Description of Sanctioning Factors

[19] As set out by an ASC panel in *Re Homerun International Inc.*, 2016 ABASC 95 at para. 20 (and considered in many subsequent decisions, including *Re Ghani*, 2024 ABASC 48 at para. 41), we consider four categories of sanctioning factors:

- the seriousness of the respondent's misconduct;
- the respondent's pertinent characteristics and history;
- any benefit sought or obtained by the respondent; and
- any mitigating or aggravating considerations.

[20] These factors were discussed extensively by the panel in *Homerun* (at paras. 22-46). We adopt that discussion here, and use it in our analysis below, which considers the applicability of each factor in Lackan's circumstances.

(b) Consideration of Sanctioning Factors

(i) Seriousness of Lackan's Misconduct

[21] There are three aspects to consider when assessing the seriousness of misconduct: "the nature of the misconduct; intention (whether the misconduct was planned and deliberate, not deliberate but attributable to recklessness, or simply inadvertent); and the harm to which the misconduct exposed identifiable investors or the capital market generally" (*Homerun* at para. 22).

[22] Fraud is inherently serious because it involves deceit and a risk to investors (and often, as here, an actual loss).

[23] When considering the second aspect, Lackan's intention, we refer to the facts and conclusions set out in the Merits Decision, including:

- Lackan used the majority of investors' money for his personal expenses, despite telling them he would use their money to acquire or invest in ACT (and we rejected his claim that he told investors what he was actually doing with their money).

- We also rejected Lackan's excuse that he thought it was acceptable to use investors' money for personal expenses.

- Lackan prepared, and provided investors with, falsified certificates for 149 Shares – in some cases several months after taking their money. He was frequently evasive and uncommunicative when investors sought information, answers, and (in some cases) the return of their invested money.

- ACT was a legitimate business, but there was no definitive agreement for Lackan to purchase ACT, and he did not have sufficient funds to make that purchase. Most significantly, he never intended to use the money raised from these investors to acquire or invest in ACT.

- Lackan failed in his attempts to blame others for different aspects of his misconduct.

[24] Although intention is irrelevant to making a finding of fraud, intention is relevant for sanction. We are satisfied that Lackan's misconduct – lying to investors and spending their money on himself – was planned and deliberate. Our conclusion on this is reinforced by his surrounding misconduct, including the falsified 149 Share certificates, and the evidence from the Staff Affidavit showing that Lackan embarked on his fraudulent misconduct less than a month after filing for bankruptcy.

[25] The third aspect is the harm to which investors and the capital market were exposed. As found in the Merits Decision, Lackan created the risk of such harm and caused actual harm by using the majority of the investors' money for his personal expenses instead of investing it in ACT as he had promised. In addition to the financial losses suffered by investors, their level of confidence in the capital market was undermined, as was the confidence of others seeing Lackan's behaviour and the losses it caused.

[26] Lackan's misconduct was serious, intentional, and caused actual harm. This calls for significant sanctions.

(ii) Lackan's Characteristics and History

(A) Level of Experience

[27] As noted in *Homerun* (at para. 27), a respondent's characteristics and background can indicate the level of risk posed in the future by the respondent, which affects the extent of deterrence required. Relevant factors here "may include education, work experience, registration or other participation in the capital market, any disciplinary history and (with particular reference to proportionality) claimed impecuniosity" (*Homerun* at para. 28).

[28] Lackan was 65 at the time of the Sanction Hearing. We do not have definitive information about Lackan's education and work experience. We know he provided bookkeeping work through Lackan Consulting for a number of years, meeting at least some of the investors when they were his clients. Although sometimes referred to as an "accountant", there is no evidence that Lackan ever had a professional accounting designation. Lackan also stated numerous times in the Lackan Transcripts and other documents in evidence that he was involved somehow in addiction recovery services, through CAMP and otherwise. That involvement was the reason he gave to investors for raising money, ostensibly for ACT, and for not being able to respond to their messages or to keep commitments to meet them.

[29] Staff noted that there is no evidence that Lackan had previously participated – or had any disciplinary history – in the capital markets. However, we concluded in the Merits Decision that Lackan knew he lied to investors, gave some of them falsified certificates for 149 Shares, used their money for his own purposes, and avoided them. Lackan clearly did not need capital-market experience to know that his behaviour was wrong. The panel in *Homerun* discussed this type of situation (at paras. 31-32):

> . . . an absence of relevant education, experience or disciplinary history is not necessarily a moderating consideration. This will depend on all the circumstances, including the nature of the misconduct found, and evidence of what the respondent has learned from the events giving rise to the misconduct found. Thus, for example, deceiving investors is obviously wrong, so lack of education or experience is unlikely to moderate in cases of knowing misrepresentation or fraud.
>
> By contrast, for some other types of misconduct, a naïve or inexperienced individual who has since made efforts to self-educate could present a diminished risk of future misconduct, whereas such an individual who has learned nothing may present a heightened risk – indicating respectively a diminished or a heightened need for specific deterrence. In either case, there may be a need for general deterrence, to remind others of the need to operate within the law.

[30] We conclude that Lackan's lack of capital-market education, experience, and disciplinary history was not moderating here because fraud is self-evidently wrong. There are also no indications that Lackan recognizes his lack of experience or has made efforts to improve his understanding of the responsibilities connected to raising and using money from investors.

(B) Impecuniosity

[31] As stated in *Homerun* (at para. 34):

> . . . panels may be faced with assessing the proportionality of contemplated sanctions against a respondent claiming impecuniosity, or at least a constrained ability to satisfy any monetary order. If founded in fact, this will be an important consideration in determining what sanction or combination of sanctions (in type and extent) would proportionately and reasonably achieve the deterrence required. A somewhat related, and important, consideration may be the effects of a monetary sanction on victims of the misconduct. It may be appropriate to moderate or forego a monetary sanction that would foreseeably diminish investors' prospects of financial recovery.

[32] The Staff Affidavit included assertions and documentation regarding Lackan's financial circumstances as at the time various searches were conducted in June 2024:

- He filed for personal bankruptcy in June 2018, with declared liabilities of approximately $3.44 million and declared assets of approximately $1.66 million. The insolvency trustee was discharged on August 29, 2022, but Lackan had not been discharged from bankruptcy (his discharge status was listed as "Hearing Adjourned" as of the June 12, 2024 search date).

- His home was sold in February 2021 through a court-ordered process.

- The Alberta Personal Property Registry showed seizures of property from Lackan in February 2017, and over $1.4 million still outstanding from writs of enforcement issued in January and March of 2018.

- He had no property or vehicles registered in Alberta in his name.

- He had two credit accounts listed as being in collections.

[33] Lackan did not provide additional evidence or statements about his past and current financial situation.

[34] We are satisfied that Lackan was impecunious at the time of this proceeding and was in dire financial circumstances when raising money from the investors (starting in July 2018, less than a month after filing for bankruptcy) and using the majority of that money for his own expenses. Staff argued that, although Lackan's current impecuniosity warranted a lower administrative penalty than would otherwise be imposed, this should have only a moderate effect on the amount of the penalty because his fraud called for considerable specific and general deterrence. Lackan did not state a position on this. Based on Staff's evidence, however, we assume Lackan would argue that any monetary sanction would be beyond his ability to pay.

[35] Bearing in mind the proportionality principles quoted above from *Walton* (at paras. 154 and 156), a large monetary sanction grounded solely in the need for general deterrence would be inappropriate, given Lackan's impecuniosity. However, there is still a very high need for specific deterrence in this case.

(iii) Benefit Sought or Obtained by Lackan

[36] The most obvious benefit sought and obtained by Lackan was the $153,500 he raised from investors, using the majority of that for his own purposes. The panel in *Homerun* noted the possibility of less tangible benefits such as seeking to enhance one's reputation, but we do not find any other benefits to be a factor here.

[37] Staff further submitted that the need for deterrence was heightened by Lackan's entitled and self-serving use of investors' money as his own because of his financial problems.

[38] It seems likely Lackan would have argued – as he stated in the Lackan Transcripts – that he did not wrongly benefit because he told investors he would be using their money for his own expenses. He also may have continued to claim it was Wylie's fault that the ACT sale to Lackan was not completed, and, therefore, it was Wylie's fault that Lackan could not give investors any ACT Shares.

[39] As stated in *Homerun* (at paras. 37-38), benefiting from capital-market misconduct "can present an obvious incentive for, and therefore a risk of, similar misconduct in future, by the respondent or by others", with that risk typically being greater when a larger benefit has been obtained.

[40] We have no doubt that Lackan benefited from his misconduct by receiving $153,500 from investors and spending the majority of it on himself. We have also concluded that he did that intentionally, telling the investors the money was for acquiring or investing in ACT, but intending all along to use it for his own expenses. As noted, he acknowledged having no other income at that time, and it is apparent from the Staff Affidavit that he had few, if any, available assets upon which he could draw at the time he raised the $153,500. Further, as of the time he was interviewed, Lackan insisted that he was entitled to use investors' money as he chose. Nothing in his words or conduct since then (as much as we could glean from his very limited participation throughout the proceeding) indicated that he understood the gravity of using investors' money for his personal financial benefit. He remains a great risk to investors and the capital market.

[41] Accordingly, there is a strong need for specific and general deterrence, given the risk of Lackan or another engaging in such misconduct in the future for financial benefit. The only unusual factor here is that the amount Lackan raised and spent was considerably less than most of the misconduct seen by hearing panels. That calls for a somewhat lower monetary sanction package than might otherwise be indicated for this type of fraud. We emphasize, however, that the $153,500 he raised and the minimum $115,378 of that which he spent for his own purposes was real money and was important to these investors. Our recognition that other fraudsters have cheated other investors out of larger amounts does not in any way diminish the significance of these amounts to these investors.

(iv) Mitigating or Aggravating Considerations

[42] The panel in *Homerun* described mitigating and aggravating considerations as those circumstances which must be considered, even though not fitting within the above categories, because they can indicate either a lessened or heightened degree of risk and, consequently, a lessened or heightened need for deterrence (at para. 39).

[43] Examples of mitigating factors include: efforts by a respondent to reverse the harm done to victims (e.g., financial restitution); appreciation by a respondent of the harm done and its seriousness (although failing to acknowledge that is not an aggravating consideration, because respondents have the right to deny misconduct and defend themselves against allegations); remorse; and reliance by a respondent on faulty professional advice (*Homerun* at paras. 40-43).

[44] Staff contended that Lackan has expressed no remorse or acceptance of responsibility, but instead showed consistent behaviour of avoiding and ignoring investors, making excuses, blaming others, failing to repay any of the money, and falsifying 149 Share certificates (the last point further demonstrating his disregard for the law and willingness to continue his deception over many months). They also argued that Lackan's conduct during the Investigation and his minimal participation throughout the proceeding indicated a lack of respect for the ASC. Staff submitted that most of the investors had been Lackan's clients, making his misconduct more egregious as he abused "a position of trust arising from a professional relationship".

[45] We assume Lackan would have argued that he did nothing wrong, was trying to help people, acted on the advice of others, and was unable to communicate or participate more frequently and consistently during the proceeding because of his demanding schedule assisting people who faced addiction issues. Had he made such submissions, they would have been irrelevant because we already determined in the Merits Decision that he perpetrated a fraud and was responsible for those actions. To the extent any of these points could be considered as mitigating factors in some situations, we conclude they are not substantiated or helpful in Lackan's circumstances.

[46] Lackan had the right to deny, and defend himself against, Staff's allegation. Expressing remorse or compensating investors would have been inconsistent with that right, so Lackan failing to take such measures does not warrant greater sanction. He also had the right not to participate in the Hearing, risking the potential disadvantage from not tendering his own evidence and conducting other cross-examinations (although we carefully reviewed the evidence and the law to ensure any reasonable arguments Lackan might have made were assessed). Accordingly, his denial and defence were neutral, not aggravating.

[47] However, aspects of Lackan's behaviour were troubling. We agree with Staff that Lackan's preying on clients (for whom he was privy to financial information) was an aggravating factor, as were his lies to Staff. We reject any possible justification Lackan could make for these actions.

[48] The only mitigating factor here could have been Lackan's claim that he relied on advice from others about spending investors' money on his own expenses, using 149 for the supposed acquisition of ACT, and falsifying 149 Share certificates. However, we are not persuaded that Lackan received the advice he claimed, nor would it be mitigating if he did. There was no evidence that he received any such advice, apart from claims or suggestions in the Lackan Transcripts. We stated in the Merits Decision our reasons for not accepting statements from Lackan without more: he "was completely devoid of credibility"; and when his statements "were the only evidence on a particular topic, we could not rely on them". Further, none of those on whose advice he claimed to rely were professionals giving him advice in a professional capacity. Finally, even if he had

received professional advice on any of these points, it would have been unreasonable to rely on it because his actions were self-evidently wrong.

[49] We conclude that there were no mitigating factors, but we find aggravating factors in his taking advantage of bookkeeping clients and lying to Staff during the Investigation. In our view, Lackan remains a heightened risk to investors and the capital market, indicating a greater need for specific deterrence.

C. Outcomes of Other Proceedings

1. Decisions Presented to Panel

[50] Staff directed us to six previous decisions of ASC panels. Four of those were decisions based on statements of admissions and joint submissions on sanction. Such decisions may be helpful, although often are of limited use because, by their nature, they involved respondents who took at least some responsibility for their misconduct and for its serious effects on investors and our capital market. The other two decisions cited by Staff were based on contested merits and sanction hearings. Lackan did not provide any previous decisions for our consideration

2. Decisions Based on Admissions and Joint Submissions

[51] In *Re Nyadongo*, 2022 ABASC 19, Nyadongo was given various market-access bans (for the later of 20 years and the date he paid an administrative penalty of $150,000) and a disgorgement order of $234,000. The respondents admitted to engaging in illegal distributions and fraud by raising at least $1.2 million from at least 22 investors who did not qualify for exemptions under Alberta securities laws, and using at least $234,000 for Nyadongo's benefit. The panel largely accepted the sanctions jointly proposed by the parties, adding only a minor condition.

[52] *Re Currey*, 2018 ABASC 34, was a case in which the respondents raised $3.2 million from nine investors and misappropriated approximately $695,000 of that for undisclosed purposes. Although near insolvency, Currey consented to a large court judgment in favour of one of the investors. Currey had experience in the capital market as a registrant, but no sanction history, and he was remorseful. He admitted to all of Staff's allegations (illegal dealing, illegal advising, and fraud) and participated in a joint submission on sanction. The panel accepted the jointly proposed orders: 20-year market access bans (or until a $200,000 administrative penalty was paid, whichever was later); and disgorgement of $120,200.

[53] In *Re Bradbury*, 2016 ABASC 272, Bradbury admitted to illegal dealing, illegal distributions, misrepresentations to Staff, and fraud. He raised over $1.5 million from at least 16 investors, using at least $370,000 for himself. Bradbury had previously been a registrant and had a sanction history. He was also impecunious and had tried unsuccessfully to recover some money for investors. The panel made orders corresponding to those jointly proposed by the parties: permanent market-access bans; disgorgement of $370,000; and an administrative penalty of $150,000.

[54] *Re Calmusky*, 2016 ABASC 9, was a fraud case with admissions by Calmusky and a joint submission on sanction and cost recovery. Calmusky raised approximately $1.1 million from investors, eventually transferring that to other accounts instead of paying investors the principal and promised interest. He had consented to a court order to pay almost $1 million to a receiver,

which the panel concluded was more likely to assist investors than a disgorgement order would. Calmusky was also impecunious. The panel concluded that the jointly recommended orders were appropriate: permanent market-access bans; and an administrative penalty of $100,000.

3. Decisions Arising from Contested Proceedings

[55] In *Re Shaw*, 2023 ABASC 110, Shaw and a corporate respondent were sanctioned for perpetrating a fraud on investors. Shaw raised $940,000 through the company, but almost immediately used approximately $807,780 of that amount to purchase a house for himself and his spouse at the time. Shaw received permanent market-access bans. He was ordered to pay disgorgement of $283,780 (Staff asked for that amount, submitting Shaw should receive credit for $524,000 one of the investors recovered through legal proceedings). The panel also imposed an administrative penalty of $150,000. In determining the appropriate amount of the administrative penalty, the panel deducted $50,000 from the $200,000 it would otherwise have ordered. That deduction was to account for some indications that Shaw was experiencing financial and health difficulties.

[56] The respondent in *Re Ward*, 2023 ABASC 62 was sanctioned for illegal distributions, misrepresentations, and fraud. He raised $500,307, misappropriating at least $106,610.22 of that for his personal use. Although he showed some remorse, that was not a mitigating factor in the circumstances because he also continued to blame others. The panel found several aggravating factors: he sought legal advice, but ignored it; he took advantage of prior personal relationships, including using a relationship to gain access to vulnerable investors' home equity; and he tried to dissuade some investors from pursuing legal action. Although Ward claimed to be in financial difficulty, there was no persuasive evidence of that. The panel ordered permanent market-access bans, disgorgement of $106,610.22, and an administrative penalty of $100,000. The panel acknowledged that the amount of the administrative penalty (which was the amount Staff sought) was "bordering on lenient".

4. Relevance of Cases Cited

[57] We do not find helpful the four cases based on admissions and joint recommendations, partly because they were negotiated among the parties, meaning the results may have been affected by considerations other than the *Homerun* factors and framework. In addition, they involved much more money raised, respondents in three of the cases made some efforts at restitution (which was a factor affecting the administrative penalties ordered), and all but *Calmusky* involved findings on allegations in addition to fraud. We note that two of these fraud cases resulted in market-access bans of 20 years, while the other two respondents received permanent market-access bans. To the extent Lackan might have argued that non-permanent bans were appropriate in his circumstances, we consider that in our analysis below.

[58] We find *Shaw* helpful because of some similarities to the present case. The sole allegation and finding was fraud. The amount raised and misappropriated was significantly higher in *Shaw*, but the net amount misappropriated (after accounting for one investor's recovery from Shaw) was closer to the amount Lackan took from investors through his fraud. Shaw also did not engage fully in the proceeding against him, and there were indications that Shaw may have been impecunious (compared to the strong evidence that Lackan is impecunious).

[59] *Ward* is also relevant. Ward raised more money and contravened more provisions of the Act than Lackan, but they were found to have misappropriated comparable amounts. As did Lackan, Ward took advantage of learning about victims' financial circumstances through a previous relationship (business relationships in Lackan's case; a personal relationship in Ward's case).

D. Conclusion on Principles and Factors

[60] Lackan perpetrated a planned and deliberate fraud, which is very serious misconduct. In the course of that fraud, he lied to investors, took advantage of his previous relationships with them, spent their money for his own purposes, and falsified share certificates. Lackan used the majority of the investors' money for himself. None of the money has been recovered or is likely to be recovered. During the Investigation, Lackan lied to Staff investigators and blamed others for his actions and their consequences. He attempted to justify his misappropriation of investors' money, saying that he had no other source of income at the time.

[61] Lackan had no disciplinary history and raised a relatively small amount of money compared to some previous decisions cited. However, the other aspects of his fraudulent misconduct were egregious, and he caused significant harm to the particular investors and the capital market as a whole. There was no indication that he understands the responsibilities involved when raising money from investors.

[62] We conclude that Lackan continues to pose a substantial risk to investors and the capital market. In his particular circumstances, specific deterrence is highly significant and is more important than general deterrence.

E. Determination on Appropriate Sanction

1. Market-Access Bans

[63] The first types of sanction sought by Staff are often termed market-access bans. They are available under s. 198(1) of the Act for our consideration when it would be in the public interest to order them. Here, Staff argued that various permanent market-access bans were appropriate under ss. 198(1)(b), (c), (c.1), (d), (e), (e.1), (e.2), and (e.3). Those sections cover, respectively: trading in or purchasing securities or derivatives; using exemptions; "engaging in investor relations activities"; resigning from director and officer positions of certain entities; acting as a director or officer of certain entities; "advising in securities or derivatives"; "acting as a registrant, investment fund manager or promoter"; and "acting in a management or consultative capacity in connection with activities in the securities market".

[64] Some of the bans sought might seem unconnected to Lackan's specific misconduct (such as a ban on acting as an investment fund manager or acting as a director of a recognized quotation and trade reporting system). However, in light of the principles and factors discussed above – including Lackan's serious misconduct, no indication that he understands the gravity of his deceit and its consequences to investors, and his continued impecuniosity (increasing the temptation for him to engage in further capital market misconduct) – we consider he poses an extremely grave risk if he were permitted to have any type of role in our capital market. This broad array of market-access bans is also necessary to deter others who may be tempted to engage in fraud in any aspect of the capital market.

[65] Regarding the duration of the market-access bans, it seems likely Lackan would have argued that any bans ordered should not be permanent, particularly given the small amount of money he misappropriated relative to other decisions in which permanent bans were ordered. Staff's suggested comparators from past ASC decisions included two in which 20-year market-access bans were ordered. Those were non-contested hearings in which other factors likely played a role in the length of the market-access bans, in light of the predicted level of risk and the need for deterrence in those situations.

[66] Based on the principles and factors discussed above, we conclude that broad permanent market-access bans are required so that Lackan will never again be allowed to raise money from investors or otherwise jeopardize our capital market. In making that determination, we also account for the fact that, as discussed below, Lackan's impecuniosity leads us to impose an administrative penalty lower than would otherwise be warranted for his misconduct. In these circumstances, we find it appropriate to impose the longest possible duration of market-access bans so as to achieve the required levels of specific and general deterrence when proportionality principles require a lower administrative penalty than would otherwise be in the public interest.

[67] Turning to "carve-outs", mentioned by Staff in their submissions, ASC panels will consider ordering carve-outs from any bans imposed, if sought by a respondent and appropriate. These are exceptions to allow for certain minimal activity in a banned area, such as allowing trading and purchasing in registered accounts for retirement or educational purposes. Staff stated that they were not opposed to considering reasonable carve-outs, if Lackan explained a need for those and they were not contrary to the public interest. Lackan did not request carve-outs, nor does anything in the evidence lead us to conclude that carve outs-would be appropriate. We are not ordering carve-outs. However, Lackan has the option of seeking carve-outs in the future by applying under s. 214(1) of the Act for a variation of our sanction order.

[68] Accordingly, we are satisfied the types of market-access ban sought by Staff are appropriate here, as set out in detail in the order below, and that such bans should be permanent.

2. Monetary Sanctions

(a) General

[69] In addition to market-access bans, monetary sanctions play an important role in protecting investors and the capital market from Lackan and others who may be tempted to engage in similar misconduct. The two types of monetary sanctions are a disgorgement order to ensure Lackan does not profit from his misconduct, and an administrative penalty to reinforce to him and others that such misconduct is unacceptable.

[70] As noted, Staff sought a disgorgement order of $115,378 and an administrative penalty of $60,000. Lackan made no submissions.

(b) Disgorgement

[71] Section 198(l)(i) allows us to order what is commonly called "disgorgement" – that a person who contravened Alberta securities laws "pay to the [ASC] any amounts obtained or payments or losses avoided as a result of the non-compliance", if such an order is in the public

interest. A disgorgement order is intended to provide specific and general deterrence by eliminating the motive of profit from misconduct. It is designed to remove "all money unlawfully obtained by a respondent so that the respondent does not retain any financial benefit from breaching the Act" (*Re Planned Legacies Inc.*, 2011 ABASC 278 at para. 71, also cited in *Re Fauth*, 2019 ABASC 102 at para. 77).

[72] An ASC panel in *Fauth* set out the law of disgorgement (at paras. 76-87). A different panel in *Ward* summarized the main principles (at para. 34; original emphasis):

> - First, the panel must determine whether the respondent obtained a monetary amount as a result of the misconduct. Second, the panel must be satisfied that a disgorgement order is in the public interest.
>
> - Staff bear the burden of proving the approximate amount obtained by the respondent on a balance of probabilities. The burden then shifts to the respondent to demonstrate that that amount is inaccurate or unreasonable. Uncertainty is resolved against the respondent because it is the respondent's failure to comply with the law that gave rise to the uncertainty; this approach also ensures that a disgorgement order is not frustrated by the complexity of the misconduct or the respondent's attempts to conceal it.
>
> - Since s. 198(1)(i) refers to "any amounts obtained" (and not to amounts retained), disgorgement may be appropriate even if the respondent has spent or otherwise dissipated some or all of the funds in question. This is to avoid rewarding a wrongdoer for spending ill-gotten gains quickly enough to avoid being held liable for those funds later.
>
> - For the same reason, a disgorgement order may be appropriate even if the respondent is impecunious. As the panel explained in *Re Magee*, 2015 ABASC 846 (at para. 191), "it would seem perverse that disgorgement could be ordered against a respondent who has retained amounts illegally obtained, but not against a respondent who has squandered such amounts".

[73] Relying on those principles, we are satisfied that Lackan obtained a monetary amount through his misconduct, and that a disgorgement order is in the public interest so that Lackan does not profit from that misconduct. The remaining issue is the amount of such an order.

[74] Staff proved that Lackan raised $153,500 from investors and spent at least $115,378 of that amount for purposes not disclosed to investors. Lackan presented no evidence or argument specifically directed to these amounts. We assume he would have again blamed others for his misconduct and claimed, as he did in the Lackan Transcripts and his brief involvement in the Merits Hearing, that he told investors he would be spending their money on his own expenses and purposes, with money from unidentified other investors being used to finance the acquisition of ACT. We rejected any such justifications in the Merits Decision and do so here as well.

[75] We consider it irrelevant that Lackan no longer has the money he spent because, as stated in *Fauth* and *Ward*, the relevant amount is that obtained, not retained. We also agree with the statements in those decisions that impecuniosity is not a bar to making a disgorgement order, if such an order is otherwise appropriate in the public interest for deterrence. It would indeed be perverse to allow a respondent to escape a disgorgement order by spending the money obtained illegally (*Ward* at para. 34).

[76] We are satisfied it is in the public interest to order Lackan to pay $115,378 as disgorgement.

(c) Administrative Penalty

[77] Section 199 of the Act gives us the jurisdiction to impose "an administrative penalty" to a maximum of $1 million for each contravention, if a respondent has contravened Alberta securities laws and such an order would be in the public interest. Previous ASC panel decisions, including *Ward* (at para. 35), have stated that an administrative penalty is a direct financial consequence which provides deterrence by making a sanction more than a mere cost of doing business. The Alberta Court of Appeal in *Walton* noted that it is reasonable to impose both disgorgement and an administrative penalty together as monetary sanctions because disgorgement alone would leave a respondent in a position to, "at worst, 'break even'" (at para. 156; although that was in the insider trading context, we find it equally applicable to this fraud case, as in *Fauth* (at para. 97)).

[78] An administrative penalty is part of the entire sanction package. It requires us to balance the other appropriate sanctions, along with a consideration of Lackan's misconduct, the sanctioning principles and factors discussed above, administrative penalties imposed in previous cases, and Lackan's circumstances, including his impecuniosity. This is all to ensure that any administrative penalty ordered is proportionate in the circumstances.

[79] Fraud is very serious misconduct, Lackan personally benefited from his fraud, and certain of Lackan's actions exacerbated the seriousness of the misconduct (including preying on his bookkeeping clients, falsifying 149 Share certificates, and repeatedly lying to investors and Staff). There were no indications that Lackan understands the competence and integrity standards required of those raising money from investors. All of those factors indicate that an administrative penalty at the larger end of the appropriate range would be warranted. From the cases presented to us, an administrative penalty in the range of $100,000 to $200,000 would be appropriate as a starting point, relying largely on *Shaw* ($200,000 was fitting, but $50,000 was deducted due to financial circumstances) and *Ward* ($100,000, with no finding of financial difficulties).

[80] We have concluded that specific deterrence is the most important principle here, and that the primary concern is Lackan never again being permitted to have a role in our capital market. Examining the sanctions as a whole, we have determined that permanent market-access bans are necessary and disgorgement of $115,378 is warranted. In conjunction with those sanctions – and also considering Lackan's impecuniosity, the $60,000 sought by Staff, and the fact that Lackan did not make submissions regarding the amount or suggest a different amount – we find that an administrative penalty of $60,000 is appropriate here. Had we imposed shorter market-access bans and had Lackan not been impecunious, a larger administrative penalty would have been necessary for deterrence.

3. Conclusion on Appropriate Sanction

[81] Therefore, we conclude that Lackan should be subject to an array of permanent market-access bans (set out in detail below), and ordered to pay to the ASC disgorgement of $115,378 and an administrative penalty of $60,000.

IV. ANALYSIS: COST RECOVERY

A. Parties' Positions on Cost Recovery

1. Staff's Position

[82] Staff sought a cost-recovery order under s. 202 of the Act. Staff's original submission was that Lackan pay to the ASC $80,000 for costs of the Investigation and Hearing. However, that was based on the law in effect before October 31, 2024. As of that date, s. 20(a) of the *Alberta Securities Commission Rules* (General) (the **Rules**) was amended so that costs related to the time spent by Staff on a matter are now assessed primarily based on a tariff, as set out below. The provisions relating to disbursements are unchanged.

[83] Following the effective date of this new provision, Staff provided supplemental written submissions indicating that a lower cost-recovery amount of $51,233.62 was appropriate here. In conjunction with these submissions, Staff provided an amended bill of costs showing that amount (the **Amended Bill of Costs**). We need not discuss Staff's originally proposed cost-recovery amount or the original bill of costs. We note that Staff did initially mention that Lackan was uncooperative during the Investigation and did not contribute to efficiencies in the course of the proceeding – thus implying that there should be no moderation of the otherwise-appropriate cost-recovery order. We conclude that Staff intended that submission to apply under the tariff system as well.

[84] In the previous decisions cited by Staff, cost-recovery amounts were between $10,000 and $25,000 in the non-contested matters and were $129,000 and $98,400 in the contested ones (*Shaw* and *Ward*, respectively). In light of the new provisions and Staff's supplemental submissions, we did not find these previous cost-recovery orders helpful.

2. Lackan's Position

[85] Lackan made no initial submissions on sanction and cost recovery nor did he respond to Staff's supplemental submissions on cost recovery. However, he likely would have argued that any cost-recovery order would be unreasonable in his financial circumstances. He may have also claimed that any such order could potentially have a negative effect on investors' efforts to recover their funds.

B. The Law

[86] If satisfied after a hearing that a respondent has contravened Alberta securities laws or acted contrary to the public interest, ASC panels may order a respondent to pay "costs of or related to the hearing or the investigation that led to the hearing, or both" (s. 202 of the Act).

[87] Specific categories of cost recovery are set out in s. 20 of the Rules which, as noted, was amended effective October 31, 2024 to implement a tariff system for Staff to recover some of the costs for time spent on an investigation and hearing (the former basis was an accounting of hours spent, with a specified monetary amount per hour). Section 20 of the Rules now provides:

> When the [ASC] makes an order under section 202(1) of the Act for the payment of costs of or related to the hearing or the investigation that led to the hearing, or both, the costs ordered may include one or more of the following, if the [ASC] is satisfied that such costs are reasonable in all the circumstances:

(a) costs of [ASC] staff involved in the investigation or the hearing, or both, for each of the items undertaken in Column 1 at the rate prescribed in Column 2, or as otherwise ordered by the [ASC]:

Item	**Column 1**	**Column 2**
1	Pre-Hearing Conferences and Hearing Management Sessions – for each ½ day	$500
2	Contested Interim Applications whether heard orally, in writing or both (other than Contested Adjournment Applications)	$2,000
3	Contested Adjournment Application	$1,300
4	Uncontested Application	$500
5	Ex Parte Application	$500
6	Hearing	
6(1)	For each day or partial day of hearing up to and including hearing day 15 NOTE: In the event that any of the hearing days conclude in a half-day or less, then the amount for that day is to be reduced to $4,000 regardless of the time scheduled	$8,000
6(2)	For each day or partial day after hearing day 15 NOTE: In the event that any of the hearing days conclude in a half-day or less, then the amount for that day is to be reduced to $1,500 regardless of the time scheduled	$3,000

(b) costs paid or payable to a person or company, other than [ASC] staff, appointed or engaged by the [ASC] or the Executive Director for purposes of or related to the investigation or the hearing, or both;

(c) costs paid or payable in respect of witnesses, other than costs referred to in clauses (a) and (b), for purposes of or related to the investigation or the hearing, or both; and

(d) any other costs paid or payable for purposes of or related to the investigation or the hearing, or both.

[88] As explained in the October 17, 2024 Notice of Implementation for the tariff system:

> A costs tariff provides benefits to both Staff and market participants. A costs tariff provides more transparency to Respondents, as it allows them to approximate in advance the potential costs award that they may face following a hearing. Second, given case loads and the number of matters that ultimately result in the issuance of a costs order, it is more efficient and expedient to utilize a tariff approach as opposed to a time-tracking system.
>
> . . .
>
> Notwithstanding the costs tariff, costs ultimately remain in the discretion of the [ASC panel] to make an award that is reasonable in the circumstances of the case.

[89] Many ASC panel decisions have discussed cost recovery. Despite the change to the tariff system for Staff time, the underlying principle of cost recovery as set out in *Re Marcotte*, 2011 ABASC 287 (at para. 20) remains relevant:

> A costs order is . . . a means of recovering, from a respondent found to have engaged in capital-market misconduct, certain investigation and hearing costs that would otherwise be borne indirectly

> by law-abiding market participants whose fees fund the [ASC's] operations. It is generally appropriate that a respondent pay at least some portion of the relevant costs. . . .

[90] A panel will no longer engage (as was done before the tariff system) in an assessment of "recoverable fees" after an analysis of Staff's total fees, claimed fees, and potential further relevant adjustments to those claimed fees. However, it is important to note that the tariff amounts encompass more than the specific enumerated category. For example, there is now no separate amount claimed or awarded for time spent by Staff to: investigate a matter; review and prepare documents to fulfil their disclosure obligations to respondents; prepare for examining and cross-examining witnesses during a hearing; or prepare written and oral submissions. Therefore, the $8,000 allocated for a hearing day cannot be taken as representing a cost-recovery amount solely for Staff's time on that hearing day – it is also a representation of all those other costs.

[91] Further, in appropriate cases, it still may be appropriate for a panel to assess whether the calculated tariff fees should be discounted or moderated based on each party's contribution to the efficiency (or inefficiency) of the investigation and hearing process. As stated by the panel in *Homerun* (at paras. 52-53):

> [T]he panel . . . considers the efficiency (or inefficiency) that each party brought to the proceeding as a whole, and the associated contribution to the broader public interest objectives of our regulatory system. This factor may argue for moderation – sometimes substantial – in the extent of cost recovery to be ordered against a particular respondent (and therefore may result in less than full recovery of the prima facie aggregate amount).
>
> Finally, there may be concern that a cost-recovery order could diminish prospects of recovery for investor victims. This, too, may warrant moderating the amounts of cost recovery ordered against certain respondents, or wholly foregoing cost recovery in a particular case.

[92] We also conclude that statements of ASC panels relating to impecuniosity and relied on by Staff are still applicable under the new tariff system. Specifically, impecuniosity is not generally relevant to an assessment of costs (*Ghani* at para. 111 and *Ward* at para. 117, citing other decisions, including *Fauth* at para. 117, which referred to *Walton* and *Spaetgens v. Alberta (Securities Commission)*, 2018 ABCA 410).

C. Recoverable Costs

1. Tariff

[93] Staff's supplemental submissions calculated the tariff amount for Staff time spent on this matter as $37,800:

- $500 for the June 7, 2023 hearing management session;
- $1,300 for Lackan's (contested and unsuccessful) October 10, 2023 adjournment application;
- $32,000 for four full hearing days at $8,000 each (October 12, 13, 16, and 17, 2023); and
- $4,000 for one half of a hearing day at $4,000 (October 23, 2023).

[94] We agree with Staff's calculation, except for the October 17, 2023 hearing day. On that day, there was only a brief appearance in the afternoon, at which point Staff advised that their afternoon witness, Ostrosky, was not there to testify. It is not appropriate to assess $4,000 in costs to Lackan for an afternoon when nothing was accomplished because Staff's witness failed to appear. Accordingly, we reduce the amount for October 17 from $8,000 to $4,000, for a total tariff amount of $33,800.

2. Disbursements

[95] In both their original and supplemental submissions, Staff claimed $13,433.62 for disbursements. This amount was for: process server fees; witness conduct money; court reporter fees; registered mail; and corporate searches.

[96] We are satisfied from the supporting documents attached to Staff's Amended Bill of Costs that $13,208.62 of this amount should be charged to Lackan as part of the cost-recovery amount. We have deducted a court reporter late cancellation fee of $225 for an October 18, 2023 Hearing date. That was cancelled because a Staff witness was unable to attend that day, and Lackan should not bear that cost.

3. Efficiency or Inefficiency in the Proceeding

[97] As noted, we continue to have discretion to moderate an otherwise-appropriate cost-recovery amount to reflect efficiencies or inefficiencies brought to the proceeding by each party. Lackan did not make submissions asking for such moderation. Even if he had, we agree with Staff's assertion that he did nothing to contribute to efficiency in this proceeding. To the contrary, it was evident that he caused a significant amount of inefficiency. For example, he participated rarely in pre-Hearing procedures; frequently did not respond to requests and queries from Staff and the Registrar; did not initially attend for an investigative interview when summonsed; did not provide a reason for missing two scheduled interview dates until after the scheduled dates had passed; did not send to Staff documents he undertook to provide; clearly lied to and hindered Staff during the Investigation; applied for an adjournment only a few days before the long-scheduled start of the Merits Hearing; did not meaningfully participate in the majority of the Merits Hearing; did not respond to the panel's schedule for written and oral submissions after the evidentiary portion of the Merits Hearing was concluded; did not provide any written or oral submissions on the merits of the allegation against him; and did not participate in any part of the Sanction Hearing, including scheduling or submissions (despite stating to Staff that the proposed submissions schedule was reasonable).

[98] We conclude that no moderation of the otherwise-appropriate cost-recovery amount is warranted.

D. Determination on Cost Recovery

[99] We agree with the revised cost-recovery amount sought by Staff pursuant to the amended Rules, subject to the deductions of $4,225 noted above – for a total cost-recovery order rounded to $47,009. In light of Lackan's impecuniosity and current status as an undischarged bankrupt, we are not concerned that this cost-recovery order will prejudice investors' chances of financial recovery.

V. CONCLUSION

[100] For the reasons given, we make the following orders against Lackan:

- under s. 198(1)(d) of the Act, he must immediately resign all positions he holds as a director or officer (or both) of any issuer, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization, designated information processor, recognized quotation and trade reporting system, or designated benchmark administrator;

- with permanent effect:

    - under ss. 198(1)(b) and (c), he must cease trading in or purchasing any securities or derivatives and all of the exemptions contained in Alberta securities laws do not apply to him;

    - under s. 198(1)(e), he is prohibited from becoming or acting as a director or officer (or both) of:

        - any issuer or other person or company that is authorized to issue securities; or

        - a registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization, designated information processor, recognized quotation and trade reporting system, or designated benchmark administrator;

    - under ss. 198(1)(c.1), (e.1), (e.2) and (e.3), he is prohibited from:

        - engaging in investor relations activities;

        - advising in securities or derivatives;

        - becoming or acting as a registrant, investment fund manager, or promoter; and

        - acting in a management or consultative capacity in connection with activities in the securities market;

- under s. 198(1)(i), he must pay to the ASC $115,378 obtained as a result of his non-compliance with Alberta securities laws;

- under s. 199, he must pay to the ASC an administrative penalty of $60,000; and

- under s. 202, he must pay costs to the ASC in the amount of $47,009.

[101] This proceeding is concluded.

December 2, 2024

For the Commission:

"original signed by"
Kari Horn, K.C.

"original signed by"
Tom Cotter

"original signed by"
James Oosterbaan