



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*,  
R.S.O. 1990, c. S.5, AS AMENDED**

**- AND -**

**IN THE MATTER OF GOLD-QUEST INTERNATIONAL  
and SANDRA GALE**

**ORAL REASONS AND DECISION**

**Hearing:** September 10, 2014

**Decision:** September 11, 2014

**Panel:** Alan J. Lenczner -Commissioner and Chair of the Panel

**Appearances:** Christie Johnson -For Staff of the Commission

Derek Ricci -For Sandra Gale

-No one appeared for the  
Respondent, Gold-Quest  
International

## ORAL REASONS AND DECISION

The following text has been prepared for the purposes of publication in the Ontario Securities Commission Bulletin and is based on excerpts from the transcript of the hearing. The excerpts have been edited and the text has been approved by the Panel for the purpose of providing a public record of the decision.

[1] This was a hearing before the Ontario Securities Commission (the “**Commission**”) on September 10, 2014 (the “**Sanctions Hearing**”) to consider whether it is in the public interest to make an order in respect of sanctions against Gold-Quest International (“Gold-Quest”) and Sandra Gale (“Gale”).

[2] This matter comes before the Commission on an Agreed Statement of Facts (“**Agreed Statement of Fact**”) which has been executed by the Director of Enforcement and Gale on June 27, 2014. The Agreed Statement of Fact will be an Appendix to these reasons.

[3] In the Agreed Statement of Fact, Gale acknowledges that she breached section 25 and section 53 of the Act, and in addition acted contrary to the public interest. The matter before me today is the appropriate level of sanctions that should be imposed upon Gale.

[4] The object of the Act is two-fold. First, it is to protect investors from harm, and to deter other participants in the capital markets from acting contrary to the Act or to the public interest. It is also an object of the act to maintain the integrity of the capital markets. Gale, through her counsel, acknowledges that there should be a series of non-monetary sanctions so as to remove her from the capital markets. Those non-monetary sanctions will, prospectively, prohibit Gale for 15 years from trading in securities with a sole exemption that she can trade her RRSP with a number of conditions attached, which will be laid out in the order. She is also prohibited from becoming or acting as an officer or director of any registrant, investment fund manager or issuer. She must also resign any position that she has in any of those types of entities.

[5] Gale, through her counsel, takes no issue with any of these non-monetary sanctions. The issue that remains between Staff and Gale is whether a disgorgement order in the amount of \$207,641.00 should be imposed, and as well, an administrative penalty of \$50,000.

[6] I note that the \$207,641.00 is the amount of commission that Gale received from Gold-Quest resulting from her improper conduct and breaches of the Act. I also note that the amount of \$50,000 as an administrative penalty represents approximately 1-2% of the US \$4.3 million dollars that was raised from Ontario investors in what other panels, dealing with the same matter, called a Ponzi scheme, and I agree with that characterization.

[7] I want to make it crystal clear that in ordinary circumstances, disgorgement should be ordered in order to remove from a respondent that has been found to have

breached the Act or acted contrary to the public interest, any gain resulting from those breaches. I also think that in vast majority of situations, an administrative penalty of this magnitude is appropriate. General deterrence is one of the goals of the Act and that general deterrence can only be accomplished by these types of monetary penalties.

[8] At the same time, I am mindful that courts including the Supreme Court of Canada in *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, [2001] 2 SCR 132 indicated that:

“...the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets...” (para 43).

I think that the non-monetary penalties requested by Staff in this case achieve those goals.

[9] The Supreme Court of Canada further said that “the sanctions under the section are preventive in nature and prospective in orientation” (para 45). That court and other courts have indicated that punishment of an individual is not one of the objects of the Act and one of the roles that the Commission should fulfill.

[10] My observations to this point indicate that general deterrence does include monetary sanctions of the type, and in the amount, that Staff is seeking, and that I would normally impose. However, in this particular case, I look at a number of mitigating factors and remind myself that the penalty or the sanctions to be imposed must be proportionate to other cases.

[11] The mitigating factors that motivate me in this case are that Gale was not the initiator of the investment products or the designer of those products. She did not know that this was a Ponzi scheme and that it was fraudulent. Gale had a genuine belief in the investments that not only she made, but that she encouraged others to make.

[12] As distinct from the *Re Gold-Quest International et al.* (2010), 33 OSCB 11179, involving Donald and Lisa Buchanan, Gale has been remorseful. She has also not blamed anyone for her predicament, and has accepted responsibility for her misconduct. Gale has cooperated in avoiding the need for a full hearing on the merits. More particularly, Gale is now 71 years of age, she does not intend, and could not in any event, engage in the capital markets. She has no assets to her name and no realistic likelihood of gaining meaningful employment. Further, Gale lives on government pensions of about \$1500 dollars a month. In my view, asking her to disgorge \$207,641.00 and pay \$50,000 administrative penalty would be, for her, punitive.

[13] There is no likelihood that Gale will ever have the ability to pay these amounts. She owes \$223,008.52 to the Canada Revenue Agency, four chartered banks, and other

credit agencies. She is not likely to get credit from anyone again. I believe that having an order for payment over her head will only complicate her life, and will not achieve any meaningful deterrence for others. General deterrence has already been spoken to, and anyone that is not similarly situated to Gale would not get the benefit of the exercise of the Commission's discretion, as I am now doing.

[14] In conclusion, I have a draft order from Staff which I am going to approve with the exception of the paragraphs relating to monetary penalties.

[15] In respect of Gold-Quest, I note that the Alberta Securities Commission has issued orders against Gold-Quest including a permanent ban on the trading of its securities. By virtue of clause 4 in s.127(10), I am satisfied that it would be in the public interest to reciprocate that order in Ontario. I order that all trading in the shares of Gold-Quest cease permanently.

[16] I want to thank counsel for their excellent submissions. I particularly want to thank Mr. Ricci for attending as LAP counsel. It is always helpful to the Commission to have that kind of assistance.

[17] I am also going to reprimand Ms. Gale for her conduct. I hope she has learned a lesson and that her conduct will always be within the boundaries of the law going forward.

**DATED** at Toronto this 11<sup>th</sup> day of September, 2014.

*"Alan Lenczner"*

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Alan J. Lenczner

**APPENDIX A**

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**IN THE MATTER OF THE *SECURITIES ACT*  
R.S.O. 1990, c.S.5, as amended**

**- and -**

**SANDRA GALE**

**AGREED STATEMENT OF FACTS**

Staff of the Ontario Securities Commission (“Staff”) and Sandra Gale, also known as Sandi Gale, (“Gale” or the “Respondent”) agrees to the following facts regarding violations of the *Securities Act*, R.S.O 1990, c. S. 5, as amended (the “Act”) and conduct contrary to the public interest:

**A. THE RESPONDENT AND RELATED PARTIES**

1. Gale was a director of both 1725587 Ontario Inc., carrying on business as Health and HarMONEY (“Health and HarMONEY”) and the Harmony Club Inc. (the “Harmony Club”). Gale was also one of the partners of Health and HarMONEY when it operated as a general partnership. Gale resides in Oshawa, Ontario.
2. Health and HarMONEY was an Ontario corporation that was incorporated on September 20, 2007. Prior to being incorporated, Health and HarMONEY operated as a general partnership whose business name was registered on November 14, 2006 with the Province of Ontario. Health and HarMONEY carried out its business from an office located in Oshawa, Ontario.
3. The Harmony Club was a Canadian corporation that was incorporated on December 21, 2007. The Harmony Club also carried out its business from an office located in Oshawa, Ontario.

4. Pursuant to an order of the Ontario Superior Court of Justice dated August 5, 2010, upon application by Staff, a receiver was appointed over all of the property, assets, and undertakings of Health and HarMONEY and the Harmony Club.
5. On December 17, 2011, Harmony Club was dissolved by reason of non-compliance with section 212 of the *Canadian Business Corporations Act*, R.S.C. 1985, c. C-44.
6. On January 18, 2013, Health and HarMONEY was cancelled by the companies branch pursuant to section 241 of the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16.

## **B. TRADING IN SECURITIES OF GOLD-QUEST**

### **(i) The Gold-Quest Pyramid Scheme**

7. Gold-Quest International (“Gold-Quest”) was a Panamanian corporation that was controlled by a number of individuals resident in the United States, unrelated to Gale.
8. From June 2006 to May 2008, Gold-Quest accepted approximately \$29-million (U.S.) from investors, including investors in Ontario, through direct solicitations, an Internet website maintained by Gold-Quest and by referrals from existing investors. Gale was one such investor, having invested \$5,000 in Gold-Quest.
9. Investors such as Gale entered into one-year investment contracts with Gold-Quest. Gold-Quest stated that investor funds would be invested in the foreign exchange or “forex” market. Gold-Quest informed investors, including Gale, that they would receive an annual return on investment of 87.5%. However, in order to receive this 87.5% annual return, investors were required to leave their funds with Gold-Quest for a year.
10. Individuals who introduced an investor to Gold-Quest would receive the title “Administrative Manager” for the new investor. Administrative Managers would receive from Gold-Quest a total commission of 58% of the principal invested. The individual who had introduced the Administrative Manager to Gold-Quest would receive the title “Managing Director” for the new investor and would receive a commission of 1.5% per month for a year (for a total of 18% of the principal invested). Lastly, the individual who introduced the Managing Director to Gold-Quest would receive the title “Supervisory Managing Director” for the new investor and would receive a commission of 1% per month for a year (for a total of 12% of the principal invested). In sum, when a new

investor sent funds to Gold-Quest, 88% of the investor's funds were earmarked for commissions to be paid to the investor's Administrative Manager, Managing Director and Supervisory Managing Director over the course of a year (the "Gold-Quest Commission Structure").

11. From June 2006 to May 2008, Gold-Quest disbursed approximately \$20.3 million (U.S.) through distributions to investors and payments of commissions, despite receiving no income from its investments or business operations.
12. On May 6, 2008, the Securities and Exchange Commission of the United States (the "SEC") filed a complaint in the United States District Court, District of Nevada, alleging that Gold-Quest was operating a pyramid or "Ponzi" scheme. Gold-Quest has never been registered in any capacity with the SEC. The SEC further alleged that Gold-Quest used very little of the money that it raised for legitimate investments, but rather that the vast majority of new investor funds were used by Gold-Quest to make payments to current investors and commissions to participants in the Ponzi scheme. The SEC Complaint and the related allegations advanced by the SEC were not in place at the time Gale dealt with Gold-Quest.
13. On January 14, 2010, the Alberta Securities Commission (the "ASC") released its decision in the matter of Gold-Quest International Corp. et al. following a hearing on the merits. The ASC found that Gold-Quest illegally traded in and distributed its securities in Alberta and that Gold-Quest was "a sham investment scheme, a classic Ponzi scheme and a classic pyramid scheme."
14. Gold-Quest has ceased to operate and has been put into receivership by order of the United States District Court. As of December 12, 2008, the receiver appointed by the United States District Court had only recovered \$273,475.85 (U.S.).

**(ii) Trading in Gold-Quest Securities in Ontario**

15. Gold-Quest has never been registered in any capacity with the Commission. No preliminary prospectus or prospectus has ever been filed with the Commission to attempt to qualify the trading of Gold-Quest securities.

16. From November 2006 until February 2008 (the “Material Time”), Health and HarMONEY, Gale, and other employees, representatives and agents of Health and HarMONEY promoted the trading of securities in Gold-Quest to Ontario residents (the “Gold-Quest Investors”).
17. Throughout the Material Time, Health and HarMONEY and Gale were not registered in any capacity with the Commission.
18. During the Material Time, the Gold-Quest Investors invested over \$1.8 million (U.S.) with Gold-Quest as a result of promotional activities conducted by Health and HarMONEY, Gale and other employees, representatives and agents of Health and HarMONEY. These activities included recommending investment in Gold-Quest, providing specific information regarding the nature of the investment with Gold-Quest and facilitating the process of investing in Gold-Quest.
19. Gale received payments from Gold-Quest for referring the Gold Quest Investors pursuant to the Gold-Quest Commission Structure.
20. As a result of her role related to the trading of Gold-Quest securities, Gale realized \$207,641.07 (U.S.) in compensation from Gold-Quest.
21. Gale was aware of the nature of the investment contract entered into by the investors she referred to Gold-Quest, as well as the terms of the Gold-Quest Commission Structure. However, to the extent that any of the Gold-Quest Investors inquired about the Gold-Quest Commission Structure, Gale referred the Gold-Quest Investors to Donald Iain Buchanan, a director and the directing mind of Health and HarMONEY.
22. There were no exemptions under the Act which allowed the Respondent to trade Gold-Quest securities in Ontario.

**C. TEMPORARY CEASE TRADE ORDERS IN ONTARIO**

23. On April 1, 2008, the Commission issued a temporary order under subsections 127(1) and 127(5) of the Act (the “Temporary Order”). Pursuant to the Temporary Order Health and HarMONEY was prohibited from trading in any securities and that any exemptions contained in Ontario securities law did not apply to Health and HarMONEY.

24. The Temporary Order also prohibited any further trading in securities of Gold-Quest.
25. Gale was not a party to the Temporary Order.

**D. TRADING IN SECURITIES OF THE HARMONEY CLUB**

26. The Harmony Club was created by Gale, Donald Iain Buchanan, and Lisa Buchanan (the “Buchanans”), who then offered securities in this corporation to approximately 138 Ontario investors (the “Harmony Club Investors”) from October 2007 to July 2008.
27. Through the activities of the Respondent and the Buchanans, the Harmony Club received almost \$2.5-million (U.S.) from the Harmony Club Investors. These funds were then apparently used by the Harmony Club for investments in the United States.
28. Gale did not receive any financial compensation from or through the Harmony Club.
29. No preliminary prospectus or prospectus has ever been filed with the Commission to attempt to qualify the trading of Harmony Club securities.
30. There were no exemptions under the Act available to the Respondent allowing her to trade Harmony Club securities.

**E. RESPONDENT'S POSITION**

31. Gale requests that the Panel consider the following mitigating circumstances:
  - (a) Prior to her conduct, as set out above, Gale had very limited experience in the securities industry and her highest level of formal education is grade 12;
  - (b) Gale was not the architect of the investment products referred to above or the schemes that accompanied them;
  - (c) Gale did not know that her actions were in breach of the Act;
  - (d) Gale acknowledges that she failed to exercise appropriate due diligence about the propriety of participating in the sale of the investment products referred to above;

- (e) Gale is genuinely remorseful for her failure to comply with securities laws;
- (f) Gale states that she has never been the subject of any prior securities-related disciplinary proceeding.

**F. VIOLATIONS OF THE SECURITIES ACT AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

32. The conduct of Gale was contrary to the public interest and constituted the following breaches of the Act:
- (a) trading without registration contrary to section 25 of the Act; and
  - (b) an illegal distribution of securities contrary to section 53 of the Act.

DATED at Toronto this      day of May, 2014

\_\_\_\_\_  
Tom Atkinson  
Director of Enforcement

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Sandra Gale

\_\_\_\_\_  
Witness