



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
MM CAFÉ FRANCHISE INC., TECHOCAN INTERNATIONAL CO. LTD., 1727350
ONTARIO LIMITED, MARIANNE GODWIN, DAVE GARNET CRAIG and HAIYAN
(HELEN) GAO JORDAN**

- and -

**IN THE MATTER OF A
SETTLEMENT AGREEMENT BETWEEN STAFF
OF THE ONTARIO SECURITIES COMMISSION AND
MM CAFÉ FRANCHISE INC., DAVE GARNET CRAIG, and MARIANNE GODWIN**

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders regarding MM Café Franchise Inc. (“**MMCF**”), Dave Garnet Craig (“**Craig**”), and Marianne Godwin (“**Godwin**”) (collectively, the “**Settling Respondents**”) in respect of the conduct described herein.

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement of the proceeding commenced by the Notice of Hearing dated March 23, 2016, (the “**Proceeding**”) against the Settling Respondents according to the terms and conditions set out in Part VI of this Settlement Agreement (the “**Settlement Agreement**”). The Settling Respondents consent to the making of an order in the form attached as Schedule “A” (the “**Order**”), based on the facts set out below.

3. For the purposes of this Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Settling Respondents agree with the facts as set out in Part III and the conclusion in Part IV of this Settlement Agreement.

PART III – AGREED FACTS

A. Background

4. The conduct at issue in this proceeding took place between July 2011 and December 2013 (the “**Material Time**”).

5. Craig is an Ontario resident. He has never been registered with the Commission in any capacity.

6. Craig was employed with Yogen Fruz until October 2011.

7. Godwin is an Ontario resident. She has never been registered with the Commission in any capacity.

8. On September 6, 2011, Craig and Godwin incorporated MMCF for the use of the trademark, likeness, and rights of publicity for Marilyn Monroe related to the development and franchising of cafes, quick service restaurants, casual chic restaurants, fast casual restaurants, theme based restaurants, fine dining restaurants, and merchandise products such as t-shirts, glasses, bags, mugs, books, hats, souvenirs, food, and beverage products.

9. Craig was the Chief Development Officer and a director of MMCF.
10. Godwin is the Chief Executive Officer and a director of MMCF.
11. MMCF retained an agent to solicit investors to invest in MMCF via the purchase of MMCF shares. While a majority of these investors were located in China, at least four were located in Ontario.
12. As a result of this activity, MMCF raised approximately \$5.1 million from approximately 21 investors during the Material Time, some of whom were enrolled in the Provincial Nominee Immigration Program.
13. On May 1, 2014, Godwin filed an exemption from prospectus requirements with the Commission.

B. Illegal Distribution by MMCF

14. The trades in MMCF's securities were "distributions" as defined in subsection 1(1) of the Act as the securities had not been previously issued.
15. MMCF has never filed a preliminary prospectus or a prospectus with the Commission, and no prospectus receipt has ever been issued to qualify the sale of the MMCF shares.
16. Some of the investors did not qualify as accredited investors or meet other applicable exemptions from prospectus requirements.
17. Accordingly, MMCF traded in securities for which a preliminary prospectus or prospectus was not filed with the Commission and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

C. Liability of Directors and Officers

18. During the Material Time, Craig and Godwin, the directors and officers of MMCF, authorized, permitted, or acquiesced in MMCF's non-compliance with Ontario securities law.

D. Mitigating Factors

19. None of the Settling Respondents have previously been found to have breached the Act.
20. None of the Settling Respondents have previously been registered with the Commission in any capacity.
21. The Settling Respondents cooperated during Staff's investigation, and have voluntarily agreed to enter into this Settlement Agreement.
22. The Settling Respondents relied on a third-party adviser to manage investor relations, and there is no evidence that they knowingly breached the Act.

PART IV – NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

23. By engaging in the conduct described above, the Settling Respondents admit and acknowledge that they have breached Ontario securities law and engaged in conduct contrary to the public interest. In particular:

- (i) MMCF traded in securities when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to subsection 53(1) of the Act, in circumstances where there were no exemptions to the prospectus requirement available under Ontario securities law;
- (ii) Craig, being one of the officers and directors of MMCF, authorized, permitted or acquiesced in MMCF's non-compliance with Ontario securities law and accordingly failed to comply with Ontario securities law, contrary to section 129.2 of the Act;
- (iii) Godwin, being one of the officers and directors of MMCF, authorized, permitted or acquiesced in MMCF's non-compliance with Ontario securities law and accordingly failed to comply with Ontario securities law, contrary to section 129.2 of the Act; and

- (iv) The Settling Respondents' conduct was contrary to the public interest and harmful to the integrity of the capital markets in Ontario.

PART V – RESPONDENTS' POSITION

24. Craig requests that the panel at the Settlement Hearing consider the following mitigating circumstances:

- (i) At the time Craig began working for MMCF on a full-time basis, a third party adviser had already solicited investor funds;
- (ii) Craig's primary role with MMCF was creative director and chief of development. Although he signed financial documents as part of his duties as director, he did not have primary responsibility for the financial record keeping of MMCF; and
- (iii) Craig has limited financial resources.

25. Godwin requests that the panel at the Settlement Hearing consider the following mitigating circumstances: She is presently semi-retired and has limited financial resources.

26. Staff has no evidence contrary to the statements in paragraphs 24 and 25.

PART VI – TERMS OF SETTLEMENT

27. The Settling Respondents agree to the terms of settlement set forth below.

28. The Settling Respondents consent to the Order, pursuant to which it is ordered that:

- (a) the Settlement Agreement is approved;
- (b) trading in any securities or derivatives by MMCF cease permanently, pursuant to paragraph 2 of subsection 127(1) of the Act;

- (c) the acquisition of any securities by MMCF is prohibited permanently, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
- (d) any exemptions contained in Ontario securities law do not apply to MMCF permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;
- (e) Godwin shall resign any positions that she holds as a director or officer of an issuer, pursuant to paragraph 7 of section 127(1);
- (f) Godwin is prohibited from becoming or acting as a director or officer of any issuer for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8 of section 127(1) of the Act;
- (g) Godwin shall resign any positions that she holds as a director or officer of a registrant, pursuant to paragraph 8.1 of section 127(1);
- (h) Godwin is prohibited from becoming or acting as a director or officer of a registrant for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.2 of section 127(1) of the Act;
- (i) Godwin shall resign any positions that she holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of section 127(1);
- (j) Godwin is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.4 of section 127(1) of the Act;
- (k) Godwin shall pay costs in the amount of \$1,000, pursuant to section 127.1 of the Act;
- (l) Should Godwin take, complete, and pass the “Partners, Directors and Senior Officers Course” (or equivalent) offered by the Canadian Securities Institute and pay the costs ordered in subparagraph (k), Staff will consent to an order pursuant to section 144 of the Act varying the time period specified in subparagraphs (f), (h), and (j) to 2 years commencing from the date of this Order;

- (m) Notwithstanding the provisions of subparagraph (l), until the entire amount of the payment set out in subparagraph (k) is paid in full, the provisions of subparagraphs (f), (h), and (j) shall continue in force without any limitation as to time period;
- (n) Craig shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of section 127(1);
- (o) Craig is prohibited from becoming or acting as a director or officer of any issuer for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8 of section 127(1) of the Act;
- (p) Craig shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of section 127(1);
- (q) Craig is prohibited from becoming or acting as a director or officer of a registrant for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.2 of section 127(1) of the Act;
- (r) Craig shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of section 127(1);
- (s) Craig is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.4 of section 127(1) of the Act;
- (t) Craig shall pay costs in the amount of \$1,000, pursuant to section 127.1 of the Act; and
- (u) Should Craig take, complete, and pass the “Partners, Directors and Senior Officers Course” (or equivalent) offered by the Canadian Securities Institute and pay the costs ordered in subparagraph (t), Staff will consent to an order pursuant to section 144 of the Act varying the time period specified in subparagraphs (o), (q), and (s) to 2 years commencing from the date of this Order.

29. MMCF undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in

subparagraphs (b) through (d), above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

30. Godwin undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in subparagraphs (e) through (m), above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

31. Craig undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in subparagraphs (n) through (u), above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

32. Craig and Godwin agree to attend in person at the hearing before the Commission to consider the proposed settlement.

33. Craig will pay the amount set out in subparagraph (t), above, via certified cheque or law firm trust cheque prior to the approval of this settlement.

34. Godwin agrees to make the payment specified in subparagraph (k), above, by post-dated cheque(s) prior to the issuance of any Commission order approving this Settlement Agreement.

35. The Settling Respondents acknowledge that this Settlement Agreement and proposed Order may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Settling Respondents. The Settling Respondents should contact the securities regulator of any other jurisdiction in which it/he/she may intend to engage in any securities related activities, prior to undertaking such activities.

PART VII – STAFF COMMITMENT

36. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against the Settling Respondents in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of the paragraph below.

37. If the Commission approves this Settlement Agreement and a Settling Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against that Settling Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement. In addition, if this Settlement Agreement is approved by the Commission, and a Settling Respondent fails to comply with the terms of the Settlement Agreement, the Commission is entitled to bring any proceedings necessary to recover any pecuniary amounts agreed to by that Settling Respondent set out in Part VI.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

38. The parties will seek approval of this Settlement Agreement at a public hearing (the “Settlement Hearing”) before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission’s *Rules of Procedure (2014)*, 37 O.S.C.B. 4168.

39. Staff and the Settling Respondents agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Settling Respondents’ conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

40. If the Commission approves this Settlement Agreement, the Settling Respondents agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

41. If the Commission approves this Settlement Agreement, none of the parties will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

42. Whether or not the Commission approves this Settlement Agreement, the Settling Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

43. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Settling Respondents before the settlement hearing takes place will be without prejudice to Staff and the Settling Respondents; and
- (b) Staff and the Settling Respondents will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

44. All parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement, subject to the parties' need to make submissions during the public hearing.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

45. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

46. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto this 13th day of April, 2017.

“Marianne Godwin”
MM Café Franchise Inc.

Per: Marianne Godwin, Director and CEO

I am authorized to bind the corporation

Dated at Toronto this 13th day of April, 2017.

“Dave Garnet Craig”
MM Café Franchise Inc.

Per: Dave Garnet Craig, Director and CDO

I am authorized to bind the corporation

Dated at Toronto this 13th day of April, 2017.

“*Dave Garnet Craig*”
Dave Garnet Craig

Dated at Toronto this 13th day of April, 2017.

“*Marianne Godwin*”
Marianne Godwin

Dated at Toronto this 13th day of April, 2017.

“*Jeff Kehoe*”
Jeff Kehoe
Director, Enforcement Branch of the Ontario Securities Commission

Schedule “A”



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**IN THE MATTER OF A
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MM CAFÉ FRANCHISE INC. and MARIANNE GODWIN**

**ORDER
(Subsections 127(1) and 127.1)**

WHEREAS:

1. on March 23, 2016, the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing pursuant to subsections 127(1) and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the “**Act**”) to consider whether it is in the public interest to make orders, as specified therein, against and in respect of MM Café Franchise Inc., Techocan International Co. Ltd., 1727350 Ontario Limited, Marianne Godwin, Dave Garnet Craig, and Haiyan (Helen) Gao Jordan. The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations

of Staff of the Commission (“**Staff**”) dated March 23, 2016, and amended April 24, 2016 and July 26, 2016 (the “**Amended Amended Statement of Allegations**”);

2. MM Café Franchise Inc. (“**MMCF**”), Dave Garnet Craig (“**Craig**”), and Marianne Godwin (“**Godwin**”) (collectively, the “**Settling Respondents**”) entered into a Settlement Agreement with Staff dated April 13, 2017, (the “**Settlement Agreement**”) in which the Settling Respondents agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated March 23, 2016, subject to the approval of the Commission;
3. On April 13, 2017, the Commission issued a Notice of Hearing pursuant to section 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve a settlement agreement entered into between Staff and the Settling Respondents;
4. the Settling Respondents acknowledge that failure to pay in full any monetary sanctions and/or costs ordered will result in the Settling Respondents’ name being added to the list of “Respondents Delinquent in Payment of Commission Orders” published on the OSC website;
5. the Settling Respondents acknowledge that this Order may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Settling Respondents. The Settling Respondents should contact the securities regulator of any other jurisdiction in which it/she may intend to engage in any securities related activities, prior to undertaking such activities;
6. the Commission has reviewed the Settlement Agreement, the Notices of Hearing, and the Amended Amended Statement of Allegations of Staff, and heard submissions from counsel for the Settling Respondents and from Staff; and

7. the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by MMCF cease permanently, pursuant to paragraph 2 of subsection 127(1) of the Act;
3. the acquisition of any securities by MMCF is prohibited permanently, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
4. any exemptions contained in Ontario securities law do not apply to MMCF permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;
5. Godwin shall resign any positions that she holds as a director or officer of an issuer, pursuant to paragraph 7 of section 127(1);
6. Godwin is prohibited from becoming or acting as a director or officer of any issuer for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8 of section 127(1) of the Act;
7. Godwin shall resign any positions that she holds as a director or officer of a registrant, pursuant to paragraph 8.1 of section 127(1);
8. Godwin is prohibited from becoming or acting as a director or officer of a registrant for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.2 of section 127(1) of the Act;
9. Godwin shall resign any positions that she holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of section 127(1);
10. Godwin is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.4 of section 127(1) of the Act;

11. Godwin shall pay costs in the amount of \$1,000, pursuant to section 127.1 of the Act;
12. Should Godwin take, complete, and pass the “Partners, Directors and Senior Officers Course” (or equivalent) offered by the Canadian Securities Institute and pay the costs ordered in paragraph 11, Staff will consent to an order pursuant to section 144 of the Act varying the time period specified in paragraphs 6, 8, and 10 to 2 years commencing from the date of this Order;
13. Notwithstanding the provisions of paragraph 12, until the entire amount of the payment set out in paragraph 11 is paid in full, the provisions of paragraphs 6, 8, and 10 shall continue in force without any limitation as to time period;
14. Craig shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of section 127(1);
15. Craig is prohibited from becoming or acting as a director or officer of any issuer for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8 of section 127(1) of the Act;
16. Craig shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of section 127(1);
17. Craig is prohibited from becoming or acting as a director or officer of a registrant for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.2 of section 127(1) of the Act;
18. Craig shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of section 127(1);
19. Craig is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 5 years commencing from the date of this Order, pursuant to paragraph 8.4 of section 127(1) of the Act;

20. Craig shall pay costs in the amount of \$1,000, pursuant to section 127.1 of the Act;
and
21. Should Craig take, complete, and pass the “Partners, Directors and Senior Officers Course” (or equivalent) offered by the Canadian Securities Institute and pay the costs ordered in paragraph 20, Staff will consent to an order pursuant to section 144 of the Act varying the time period specified in paragraphs 15, 17, and 19 to 2 years commencing from the date of this Order.

DATED at Toronto, this 24th day of April, 2017.
