



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 LYNDZ PHARMACEUTICALS INC.,
JAMES MARKETING LTD.,
MICHAEL EATCH and RICKEY MCKENZIE**

**STATEMENT OF ALLEGATIONS OF STAFF
OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) make the following allegations:

I. THE RESPONDENTS

1. Lyndz Pharmaceuticals Inc. (“Lyndz”) is a company incorporated in Ontario. The corporation’s registered office is in Aurora, Ontario, at the residential address of Michael Eatch (“Eatch”). Share certificates in Lyndz have been sold to investors both in Ontario and in the UK. The business activity of Lyndz is purported to be the manufacture and distribution of pharmaceuticals. Lyndz is not a reporting issuer in Ontario and has not filed a prospectus. Its common shares are not known to be listed on any exchange.
2. James Marketing is a company registered in the UK with a registered office in London, England. Shareholders in Lyndz purchased their shares through a payment to James Marketing.
3. Eatch is a resident of Ontario and lives at the registered business address of Lyndz. He is the president of Lyndz and the sole director and shareholder of Lyndz Pharma Ltd. (“Lyndz UK”), a company registered in the UK operating out of the same office services facility as James

Marketing Ltd. (“James Marketing”). Eatch has never been registered with the Ontario Securities Commission (the “Commission”).

4. Rickey Blair McKenzie (“McKenzie”), a resident of Newmarket, Ontario, is the sole director and shareholder of James Marketing. McKenzie has never been registered with the Commission.

II. OVERVIEW

5. The Respondents diverted funds raised through the sale of shares in Lyndz to the personal benefit of Eatch and McKenzie via James Marketing and Lyndz UK contrary to section 126.1(b) of the *Securities Act* (the “Act”).
6. The Respondents distributed securities in Lyndz in Ontario without being registered to do so under the Act, without having filed a prospectus and without the benefit of an applicable exemption contrary to section 53(1) of the Act.
7. Eatch and Lyndz made statements in shareholder correspondence and marketing materials that were materially misleading or untrue or failed to state facts that were required to be stated to make the statements not misleading, contrary to section 126.2(1)(a) of the Act. These representations included the claim, with the intention of effecting a trade in the securities of Lyndz, that a person or company would repurchase the outstanding securities of Lyndz, contrary to s. 38(1)(a) of the Act.
8. Eatch and Lyndz purported to issue shares in Lyndz and conducted themselves as if the corporation was a going concern during a 26 month period when Lyndz was dissolved as an Ontario corporation contrary to sections 126.1(b) and 126.2(1)(a) of the Act.

III. PARTICULARS OF THE ALLEGATIONS

9. From 1999 through 2008, funds raised through the sale of shares in Lyndz were paid both to James Marketing and Lyndz UK. Monies paid to James Marketing were split between McKenzie

and Eatch according to a specific agreement, with part of Eatch's share going to Lyndz UK and part being paid to him in cash. Eatch used the Lyndz UK account as if it were his own, purchasing personal items and covering his living expenses.

10. In March 2006, Lyndz's Certificate of Incorporation was cancelled under section 240 of the Ontario *Business Corporations Act*, dissolving the company by operation of statute. Lyndz remained dissolved until May 2008, when Articles of Revival were filed. Eatch continued to issue shares in Lyndz during the 26 months that Lyndz was dissolved.
11. From November 1999 through December 2007, Eatch and Lyndz distributed Lyndz's shares on more than 100 occasions. More than 40 of those distributions were to Ontario residents. None of the Respondents is registered under the Act to trade securities in Ontario, no prospectus was filed for Lyndz and no exemption applied to the transactions.
12. Eatch drafted and distributed marketing materials on behalf of Lyndz containing materially misleading or untrue statements or failing to state facts which it was necessary to state to make the statements not misleading.
13. Lyndz' business plan, dated April 2008 and authored by Eatch (the "April 2008 Business Plan"), stated that Lyndz was going to purchase a British Columbia pharmaceuticals manufacturing facility when the facility in question had already been sold to another purchaser.
14. From 2003 through 2008, Eatch drafted and distributed a series of letters to Lyndz' shareholders on the letterhead of Lyndz and James Marketing purporting to describe a series of offers the company had allegedly received to re-purchase the outstanding shares of Lyndz and to finance various alleged projects. The letters quoted specific prices at which shares would be purchased, named purchasing corporations and quoted amounts of funding pledged. None of the alleged offers described in the letters delivered by Eatch resulted in either the re-purchase of shares or the financing of Lyndz' projects. At least one of the alleged purchaser corporations did not even exist.

IV. CONDUCT CONTRARY TO THE PUBLIC INTEREST

15. By diverting funds raised from the distribution of Lyndz' shares for their personal benefit, Eatch and McKenzie have engaged in a fraud on the investors in Lyndz, contrary to s. 126.1(b) of the Act and contrary to the public interest.
16. By continuing to conduct themselves as if Lyndz was an active legal entity and purporting to issue securities when they knew the company had been dissolved, Eatch and Lyndz have engaged in a fraud on the investors in Lyndz, contrary to s. 126.1(b) of the Act and contrary to the public interest.
17. By making statements which, at the time and in light of the circumstances under which they were made, were materially misleading or untrue or failed to state facts that were required to be stated to make the statements not misleading, Eatch and Lyndz acted contrary to s. 126.2(1)(a) of the Act and contrary to the public interest.
18. By representing, with the intention of effecting a trade in the securities of Lyndz, that a person or company will repurchase the outstanding securities of Lyndz, Eatch and Lyndz acted contrary to s. 38(1)(a) of the Act and contrary to the public interest.
19. By distributing shares in Ontario when no prospectus had been filed, without a receipt having been issued and without the benefit of an applicable exemption, Lyndz and Eatch acted contrary to s. 53(1) of the Act and contrary to the public interest.
20. Staff reserve the right to make such further and other allegations as Staff may advise and the Commission may permit.

DATED at Toronto this 23rd day of September, 2009.