



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
HOWARD RASH**

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

Staff of the Ontario Securities Commission (“Staff”) allege:

I. OVERVIEW

1. On August 31, 2012, Howard Rash (“Rash”) pleaded guilty in the Ontario Court of Justice to one count of fraud, contrary to sections 122 and 126.1(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), and one count of contravening Ontario securities law by trading in securities at a time when he was prohibited from doing so by order of the Commission, contrary to section 122 of the Act. Rash’s guilty plea was accepted by the Court and he was convicted and sentenced to 9 months in prison and probation for 2 years.
2. The offences for which Rash was convicted arose from transactions, business and/or a course of conduct related to securities.
3. Staff are seeking an inter-jurisdictional enforcement order reciprocating Rash’s convictions, pursuant to paragraph 1 of subsection 127(10) of the Act.
4. The conduct for which Rash was convicted took place between September 2007 and June 2008 (the “Material Time”).

II. THE RESPONDENT

5. Rash is resident of Ontario.
6. On July 23, 2007, in connection with the *Momentas Corporation et al.* proceeding, the Commission made an order pursuant to subsection 127(1) of the Act that, *inter alia*, Rash permanently cease trading in securities.

III. THE ONTARIO COURT OF JUSTICE PROCEEDINGS

The Statement of Facts for Guilty Plea

7. As part of Rash's plea, a statement of facts was filed as an exhibit with the Court (the "Statement of Facts").
8. According to the Statement of Facts:
 - a. [the] charges emanate[d] from a course of conduct engaged in by Rash and other persons associated with a company called Global Energy Group, Ltd. ("Global Energy");
 - b. Rash was at all material times a sales representative of Global Energy and was never a directing mind of that company;
 - c. Global Energy operated an unregistered securities sales office, commonly called a boiler room, trading units of a series of limited partnerships called New Gold LLP (the "New Gold Securities") to members of the public;
 - d. From approximately June 1, 2007 to June 25, 2008 [...], primarily using telephone solicitations, Rash and other persons associated with Global Energy (the "Global Energy Agents"), sold at least \$14.75 million (U.S.) worth of New Gold Securities to approximately 200 members of the public (the "New Gold Investors"), the majority of whom lived in western Canada;
 - e. The New Gold Securities purported to constitute ownership interests in Kentucky oil and gas leases;

- f. Rash was employed at Global Energy from mid-September 2007 to mid-June 2008. During that time, 15 to 20 of the persons whom he approached ended up investing with Global Energy;
- g. The operations of Global Energy in Ontario were supervised and directed by [V.T.] and [C.H.];
- h. Under the direction and supervision of [V.T.] and [C.H.], the Global Energy Agents, including Rash, sold the New Gold Securities to members of the public using deceit, falsehood and other fraudulent means;
- i. Rash clearly deceived investing members of the public in the following ways:
 - i. Rash lied about his true identity by using the alias David Wells;
 - ii. Rash lied about where he was selling securities from, stating that he was in Kentucky when he was in Ontario; and
 - iii. Rash improperly withheld from investors and potential investors that he was prohibited by Order of the Commission from trading in securities which would have prohibited him from selling New Gold Securities;
- j. By engaging in the conduct set out in the previous paragraph, Rash prevented any members of the public from ascertaining his registration status with the Commission and the fact that he was prohibited from selling New Gold Securities to any member of the public from Ontario;
- k. Further, during the course of his solicitations, Rash provided information to members of the public about Global Energy's prior business history, the expertise and qualifications of Global Energy's management, the oil production of the wells purportedly underlying the New Gold Securities and the use of proceeds from the sale of New Gold Securities that was false, untrue and/or misleading;
- l. Rash primarily relied on information about Global Energy and its operations provided by [V.T.], [B.C.] and [C.H.]. While [he] believed the information and

made some inquiries, Rash failed to conduct sufficient due diligence to ensure the information being conveyed to investors was correct, in circumstances where he had reason to believe the information was inaccurate;

- m. Further, on at least one occasion, Rash contacted a New Gold Investor, using the alias “Ray Lewis”, and under the pretense of being an investment banker from New York City who had purchased several units of the New Gold Securities. In this call, Rash (a.k.a. “Ray Lewis”) attempted to convince the investor about the legitimacy of the Global Energy operation to assist another salesman, [E.F.] that was attempting to sell the investor additional New Gold Securities;
- n. Rash received a commission of approximately 9.5 to 19% of his net sales of the New Gold Securities. Some of these commissions were split with [E.F.]. Investors were not informed of this commission structure; and
- o. Rash received approximately \$313,461 in sales commissions from his sales of New Gold Securities to members of the public.

Rash’s Sentence

- 9. A sentencing hearing was subsequently held in connection with Rash’s convictions before Justice Gorewich of the Ontario Court of Justice. Justice Gorewich issued oral reasons for sentence on November 7, 2013 and sentenced Rash to a term of imprisonment of 9 months and probation for 2 years.

IV. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

- 10. Pursuant to paragraph 1 of subsection 127(10) of the Act, Rash’s convictions for offences arising from transactions, business or a course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.
- 11. Staff submit that it is in the public interest to make orders against Rash.

12. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

DATED at Toronto, this 7th day of March 2014.