


IN THE MATTER OF
THE SECURITIES ACT, 1988, S.S. 1988-89, c. S-42.2
AND IN THE MATTER OF
THE FINANCIAL AND CONSUMER AFFAIRS AUTHORITY
(the “Authority”)
AND IN THE MATTER OF
DOMINION BITCOIN MINING COMPANY LTD.,
JASON EDMUND DEARBORN,
PETER SCOTT VOLDENG, AND
RONALD JAMES FREDERICK GIBBON
(the “Respondents”)

Decision dated: April 22, 2015

- [1] The proceedings at issue before the Panel of the Financial and Consumer Affairs Authority (the “Panel”) were commenced by a Notice of First Appearance, dated September 30, 2014. The Statement of Allegations of the Staff of the Financial and Consumer Affairs Authority (the “Staff of FCAA”), dated September 11, 2014, filed in support of the First Appearance, provides details of the specific allegations.
 - [2] In relation to this matter, Staff of FCAA provided disclosure to Counsel for the Respondents on November 14, 2014. On November 18, 2014, Staff of the FCAA received notification that Mr. Dearborn would be representing himself.
 - [3] On November 20, 2014, Mr. Dearborn sent a request for disclosure of information without signing an undertaking and the email response of the Staff of FCAA was reviewed by the Panel.
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- [4] On November 24, 2014, the Panel issued a Decision on Request for Disclosure ordering Staff of FCAA to provide disclosure to Mr. Dearborn without requiring an undertaking. On December 10, 2014, an Order was made by the Panel setting a date for the hearing of the matter on March 31, 2015.
- [5] On January 7, 2015, Staff of the FCAA filed a Notice of Application, dated December 19, 2014 for an order varying the Panel's Decision dated November 24, 2014. A Notice of Hearing was issued by the Registrar on January 27, 2015, setting February 20, 2015 as the date to hear Staff of FCAA's Notice of Application, dated December 19, 2014.
- [6] On February 19, 2015, the hearing of Staff of FCAA's Notice of Application was adjourned and on March 3, 2015, a conference call was scheduled for March 19, 2015. A hearing date was set for March 31, 2015 for Staff of FCAA's Application, dated December 19, 2015.
- [7] On March 13, 2015, Counsel for Mr. Dearborn filed a Notice of Application, dated March 13, 2015.
- [8] On March 27, 2015, an Amended Notice of Application was filed by Counsel for Mr. Dearborn. In the Amended Notice of Application, Counsel for Mr. Dearborn applies to the Panel for a number of remedies, including:
- An Order for compensation to be paid to Mr. Dearborn by the Staff of FCAA and/or Ms. Dallas Smith, pursuant to subsection 133(1) of *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2 (the "*Act*") for funds wasted and lost in seeking disclosure that Staff has unreasonably withheld without lawful justification; and
 - An Order for an administrative penalty to be brought against the Staff of FCAA and Ms. Dallas Smith, personally, pursuant to subsections 135.1(1) and (2) by way of a fine, in an amount the Commission deems just, up to \$100,000 and for a public reprimand of

Ms. Smith and the Staff of FCAA for their contempt of the November 24, 2014 Decision, Acts and Policy.

- [9] On March 31, 2015, the Panel determined that its Order of November 24, 2014, regarding disclosure had not been shown to be prejudicial to the public interest and, therefore, Staff of FCAA's application to vary this order was dismissed.
- [10] On April 13, 2015, Staff of FCAA advised the Registrar by email that disclosure has been provided to all respondents in the proceeding and they were requesting that a hearing date for the matter be set as soon as is practicable.
- [11] Disclosure having been made, the requests for enforcement proceedings to that end are no longer operative.
- [12] A Brief of Law was filed on behalf of the Respondent, Dearborn and a letter from Staff of FCAA was filed indicating that the application of Dearborn was without merit; both were considered by the Panel.
- [13] Of primary concern to the Panel was the question of jurisdiction to make the requested orders.
- [14] The Panel has concluded that the imposition of an administrative penalty against the Staff of the FCAA and Ms. Smith pursuant to s. 135.1 of the *Act* would be beyond the Authority's public interest jurisdiction.
- [15] The purpose of an order under s. 135.1 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. Section 135.1 is a regulatory provision. The role of the Authority in exercising its discretion under s. 135.1 is to consider the protection of investors and the efficiency of, and public confidence in, capital markets generally. The request for an order imposing an administrative penalty is

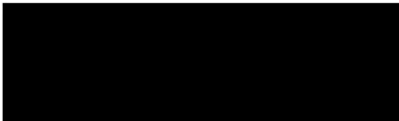
punitive in nature and does not fit within the factors identified by the courts and securities commissions as relevant for the imposition of such an order.

[16] The Respondent, Dearborn, asks the Authority to apply to the Court of Queen's Bench under subsection 133(1) of the *Act* for an order for compensation to be paid to Mr. Dearborn by the Staff of FCAA and/or Ms. Smith. Subsection 133(1) of the *Act* is a discretionary provision which may be exercised for the purpose of investigation and enforcement of the *Act*. The request sought is outside the regulatory public interest objectives of the *Act*.

[17] The Panel has considered s. 153 of the *Act*. However, in view of the foregoing, the Panel has made no determination as to the possible implications of s. 153 of the *Act* which provides immunity for the Authority and any servant or agent of the Authority.

Decision of the Panel

[18] It is therefore the decision of the Panel that there is no jurisdiction in *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2, or the Regulations to order an administrative penalty, compensation or damages as requested. The applications seeking the same are dismissed.



Mary Ann McFadyen,
Panel Chairperson