

IN THE MATTER OF THE *SECURITIES ACT*,  
SNB 2004, c. S-5.5,

AND

IN THE MATTER OF

**PIERRE EMOND, ARMEL DRAPEAU  
AND JULES BOSSÉ**  
(Respondents)

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**DECISION**

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**WHEREAS** on 21 April 2011, a Panel of the New Brunswick Securities Commission (the "Commission") heard a preliminary motion brought by the respondent Armel Drapeau ("Drapeau") on the following issues:

- i. Unredacted Disclosure
- ii. Audio-recordings of compelled interviews
- iii. RCMP file 2009466210
- iv. Estoppel ; and

**WHEREAS** on 2 May 2011 the Commission issued its Decision on the issues of

- i. Audio-recordings of compelled interviews
- ii. RCMP file 2009466210
- iii. Estoppel ; and

**WHEREAS** the Commission has now reviewed the evidence, and submissions of Drapeau and of Staff of the Commission ("Staff") relating to the

Unredacted Disclosure, which includes a spreadsheet provided by Staff, and marked as Exhibit 2 in this motion, that details Staff's redactions as well as the basis for each redaction ("Spreadsheet") and

**WHEREAS** the Commission has reviewed the unredacted documents provided by Staff; and

**WHEREAS** upon review of the unredacted documents, indicated as items 16, 17, 18, 21, 24, 25, 30, 31, 32, 33, 34, 39, 40, 41, 42, 43, 44, 45 and 46 on the Spreadsheet, the Commission determines that these items are irrelevant to the present proceeding and are not to be disclosed; and

**WHEREAS** upon review of the unredacted documents indicated as items 35 and 36 on the Spreadsheet the Commission finds that these documents are confidential communications between Staff and another regulator (Québec's Autorité des Marchés Financiers) and consequently fall into the category that is protected by public interest privilege and are not to be disclosed; and

**WHEREAS** upon review of the unredacted documents indicated as items 22 and 23 on the Spreadsheet, the Commission determines these items to also be privileged as they reflect settlement discussions between Staff and counsel for an entity which is not a party to this proceeding, and are not to be disclosed; and

**WHEREAS** Staff has not provided to the Commission unredacted versions of documents indicated as items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 26, 27, 28, 29, 37 and 38 on the Spreadsheet ("Redacted Items"), claiming a right to withhold these documents from the Commission based on Informer Privilege; and

**WHEREAS** the Commission, upon review of the evidence and authorities, rejects Staff's argument that the claim of Informer Privilege is a lawful basis to provide only redacted versions of documents to the Commission; and

**WHEREAS** the Commission shall issue reasons for the determinations made herein in due course;

**NOW THEREFORE** the Commission

- a) dismisses Drapeau's motion for production of unredacted disclosure of the documents indicated as Items 16, 17, 18, 21, 22, 23, 24, 25, 30, 31, 32, 33, 34, 35, 36, 39, 40, 41, 42, 43, 44, 45, 46, on the Spreadsheet; and
  
- b) directs Staff to immediately deliver and provide to the Commission the unredacted versions of the Redacted Items to permit the Commission to complete its review of same and thus issue its decision on the disclosure of the Redacted Items.

**DATED** this 6th day of May 2011.

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"original signed by"  
Guy Couturier, Q.C., Panel Chair

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"original signed by"  
Anne La Forest, Panel Member

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"original signed by"  
Céline Trifts Panel Member

New Brunswick Securities Commission  
Suite 300, 85 Charlotte Street  
Saint John, New Brunswick E2L 2J2  
Tel: 506-658-3060, Fax: 506-658-3059