



Financial and
Consumer
Affairs Authority 

IN THE MATTER OF

THE SECURITIES ACT, 1988, S.S. 1988-89, C. S-42.2

AND

IN THE MATTER OF

**INNOVATIVE AMERICAN TECHNOLOGY INC.,
NEOGENIX ONCOLOGY, INC.,
AND
LORNE MICHAEL PIETT**

(collectively referred to as the “Respondents”)

DECISION

Hearing Held: September 16, 2014

Before: Paul Robinson, Chairperson
Mary Ann McFadyen
Hon. Larry A. Kyle, Q.C.

(referred to as the “Panel”)

Appearances: Dallas Smith on behalf of the staff (“FCAA staff”) of the Financial and Consumer Affairs Authority (the “Authority”).

Lorne Michael Piett representing himself.

Innovative American Technology Inc. and Neogenix Oncology, Inc. did not appear at the hearing

Date of Decision: November 10, 2014.

Introduction

[1] In a Statement of Allegations dated September 6, 2013 (the “Statement of Allegations”), staff of Financial and Consumer Affairs Authority of Saskatchewan alleged that Innovative American Technology Inc. (“IAT”), Neogenix Oncology, Inc. (“Neogenix”) and Lorne Michael Piett (“Piett”) contravened section 27 and subsection 44(3) of *The Securities Act, 1988*, S.S. 1988-89 c. S-42.2, as am. (the “*Act*”). It was also alleged that IAT and Neogenix contravened subsection 58(1) of the *Act*.

[2] In the Statement of Allegations, FCAA Staff alleged that IAT and Neogenix, through Piett, acted as dealers and advisers in Saskatchewan while not registered to do so, and while no exemption from the requirement to do so was available. As well, it was alleged that Piett, while acting as agent for each of IAT and Neogenix, advised an investor that both IAT and Neogenix would trade on a stock exchange, yet none of Piett, IAT nor Neogenix had obtained permission from the Director, Securities Division, Financial and Consumer Affairs Authority of Saskatchewan (the “Director”) to make such representation. Finally, it was alleged that IAT and Neogenix made distributions, yet neither filed a prospectus or a preliminary prospectus or obtained receipts for said documents from the Director. The time frames of the alleged acts are from 2007 to 2011 for IAT and from 2007 to 2010 for Neogenix.

[3] It was further alleged that in and around 2009, Piett advised residents of Saskatchewan as to the investing in shares of various other companies while not registered to do so.

[4] In an Agreed Statement of Facts entered into by Piett and the Director on September 8, 2014 (the “Agreed Facts”), Piett admitted to each of the facts set out in the Statement of Allegations that related to him.

[5] A hearing was held on September 16, 2014, the purpose of which was for FCAA Staff to lead evidence and argue in support of findings that the Respondents contravened

section 27 and subsection 44(3) of the *Act* and IAT and Neogenix contravened subsection 58(1) of the *Act*.

[6] The FCAA Staff at the hearing, asked the hearing panel of the Financial and Consumer Affairs Authority of Saskatchewan to consider whether it was in the public interest to make the following orders (the “Requested Orders”):

- (a) pursuant to clause 134(l)(a) of the *Act*, the exemptions in Saskatchewan securities laws do not apply to the Respondents;
- (b) pursuant to clause 134(l)(d) of the *Act*, the Respondents shall cease trading in any securities or exchange contracts in Saskatchewan;
- (c) pursuant to clause 134(l)(d.1) of the *Act*, the Respondents shall cease acquiring securities for and on behalf of residents of Saskatchewan;
- (d) pursuant to clause 134(l)(e) of the *Act*, the Respondents shall cease giving advice respecting securities, trades or exchange contracts in Saskatchewan;
- (e) pursuant to clause 134(l)(h)(i) of the *Act*, Piett must resign any position that he holds as a director or officer of any issuer, registrant or investment fund manager;
- (f) pursuant to clause 134(l)(h)(ii) of the *Act*, Piett is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
- (g) pursuant to clause 134(l)(h)(iii) of the *Act*, Piett shall not be employed by any issuer, registrant or investment fund manager in any capacity that would entitle him to trade in securities;

- (h) pursuant to clause 134(l)(h.1) of the *Act*, Piett is prohibited from becoming or acting as a registrant, an investment fund manager or a promoter;
- (i) pursuant to section 135.1 of the *Act*, each of IAT and Neogenix shall pay an administrative penalty of \$50,000;
- (j) pursuant to section 135.1 of the *Act*, Piett shall pay an administrative penalty of \$40,000;
- (k) pursuant to section 161 of the *Act*, Piett shall pay costs of and related to the hearing of this matter, in the amount of \$500; and
- (l) pursuant to section 161 of the *Act*, IAT and Neogenix shall each pay one-third of the costs of and related to the hearing of this matter.

[7] At the hearing, evidence was received to the effect that each of IAT and Neogenix had advised FCAA Staff before the commencement of the hearing that it would not participate.

[8] The Panel, based on the evidence presented and, relying upon the admissions set forth in the Agreed Statement of Facts and in the testimony of Ken Foster ("Foster"), including the substantial documentation presented at the hearing, has concluded, and it so finds, that the Respondents have contravened the *Act* as set forth above. In considering whether to make the Requested Orders, the following evidence is considered to be material.

Evidence

[9] Foster, an investigator with the Financial and Consumer Affairs Authority of Saskatchewan, first began his investigation into Piett when he received a call from [REDACTED]. [REDACTED] was an individual who had made some investments through

Piett, and he was concerned that the investments were not performing as Piett had led him to believe they would.

[10] Foster met with [REDACTED], who provided Foster with some materials that related to the investments [REDACTED] made through Piett. [REDACTED] told Foster that Piett had told him that he should invest in certain companies, including Edgeworth Mortgage Investment Corporation and Focused Money Capital.

[11] [REDACTED] did not invest in IAT or Neogenix, but rather invested in a number of other exempt market products sold through the use of the offering memorandum ("OM") exemption found in National Instrument 45-106 (NI 45-106).

[12] Foster later received a complaint from [REDACTED], another individual who had invested through Piett, and became dissatisfied when the performance of the investments was not what Piett held out it would be.

[13] Foster met with [REDACTED] and her spouse, [REDACTED], and each provided him with some documents that related to the investments they made through Piett.

[14] Foster learned that [REDACTED] had invested in some of the same companies that [REDACTED] had, but she had also invested in IAT and Neogenix. [REDACTED] told Foster that Piett had said that each of IAT and Neogenix would one day trade on a stock exchange, and this was part of her motivation to invest.

[15] Foster exchanged correspondences with each of IAT and Neogenix in attempts to determine if they had sold securities to investors in Saskatchewan, and if they had, whether they had done so in reliance on any exemptions from Saskatchewan securities laws.

[16] From each of IAT and Neogenix, Foster obtained a list of Canadian investors who had purchased shares of IAT and Neogenix, respectively. The lists indicated that IAT sold a total of \$903,532.24 worth of shares to Saskatchewan residents, while Neogenix sold \$818,505.

[17] When Foster first discussed the matter with IAT, the company indicated it was not aware of any filing requirements in Saskatchewan and was relying on U.S. securities laws. It later indicated that it had repurchased all shares from nearly all of its Canadian shareholders and took the position it had no Canadian shareholders. IAT stated that it had not paid any commissions to anyone.

[18] As it turned out, IAT had actually issued promissory notes to most of its Canadian shareholders. Foster was aware of only one investor, a [REDACTED], having received her actual money back.

[19] Upon learning that FCAA Staff were taking action against IAT in Saskatchewan, IAT advised through counsel, that it would not participate in the proceeding.

[20] When Foster looked into Neogenix, he found that it had made significant filings with the Securities and Exchange Commission in the United States, but that the company was now in bankruptcy proceedings in the United States.

[21] Along with its list of investors, Neogenix provided Foster with a detailed outline of the commissions paid to Pielt and others.

[22] In meeting with each of [REDACTED], Foster questioned them as to their incomes and assets, in attempts to determine if they met the accredited investor exemption in NI 45-106. In doing so, Foster was of the opinion that none of them met any of the possible definitions of accredited investor in NI 45-106.

[23] Foster also obtained a large number of documents from Piett. These included copies of marketing materials with information on the companies whose securities were sold through the OM exemption (the “OM Companies”). Piett told Foster he had provided these documents to his clients. Foster also received copies of proposals that Piett had made up for a number of his clients, as well as documents relating to investments these clients made. [A review of the documents submitted by Foster, obtained from Piett, discloses that he advised his clients to, and they did, invest total sums of \$1,255,465 in Focused Money, \$1,290,900 in Edgeworth Mortgage Investment Corporation and \$566,000 in Foundation Mortgage II].

[24] Neither IAT nor Neogenix has ever been registered with the Authority. Piett was registered with the Authority as a salesperson as a mutual fund dealer, but has not been registered as such, or in any capacity with the Authority, since April 30, 2009.

[25] Neither IAT nor Neogenix has made any filings with the Authority, nor has either been granted any order exempting it from any of the requirements under Saskatchewan securities laws.

Decision of the Panel

[26] At all material times, Piett acted as agent for IAT and Neogenix and under the law of agency his actions on their behalfs were, for all relevant purposes, their actions.

[27] Upon the evidence, the Respondents acted as dealers in Saskatchewan while not registered to do so contrary to clause 27(2)(a), or traded in securities contrary to clause 27(1)(a) of the *Act*. As well, the Respondents acted as advisors in Saskatchewan while not registered to do so, contrary to clause 27(2)(b), formerly 27(1)(c) of the *Act*. Specifically, the Respondents traded in securities from around 2007 until September 27, 2010 and engaged in the business of trading in securities in Saskatchewan from September 28, 2010 until December 2010 (Neogenix and Piett) and in and around 2011 (IAT and Piett). At no time did any of the Respondents have an

exemption from the requirement to register or otherwise to comply with the provisions of the *Act*.

[28] The Respondents, with the intention of effecting a trade in security, made representations that the said security would be listed on an exchange while not having permission from the Director to make such a representation contrary to subsection 44(3) of the *Act*.

[29] In light of the foregoing breaches of the provisions of the *Act*, it is the determination of this Panel that it is in the public interest to make the Requested Orders sought by the FCAA Staff as set forth above, subject to the following variations:

- (1) the administrative penalty payable by Piett shall be in the amount of \$25,000;
- (2) the prohibitions in respect of breaches of subsection 134(1) of the *Act* shall be in force in the case of Piett for a period of ten (10) years from the date hereof;
- (3) IAT and Neogenix shall each pay one-half of the costs of the hearing of this matter as determined by the panel, after deducting the sum of \$500 payable by Piett.

Dated this 10th day of November, 2014.

[Redacted Signature]

Paul Robinson, Chairperson

[Redacted Signature]

Mary Ann McFadyen, Panel Member

[Redacted Signature]

Hon. Larry A. Kyle, Q.C., Panel Member