Translated from the original French

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| Autorité des marchés financiers c. Cortellazzi | | | | | | 2023 QCCQ 6729 |
| COURT OF QUÉBEC | | | | | | |
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| **CANADA** | | | | | | |
| **PROVINCE OF QUEBEC** | | | | | | |
| **DISTRICT OF** | | | **MONTREAL** | | | |
| “Criminal and Penal Division” | | | | | | |
| No.: | | 500-61-406191-156 | | | | |
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| Date: | October 5, 2023 | | | | | |
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| PRESIDING: | | | | THE HONOURABLE | JOSÉE BÉLANGER, J.C.Q. | |
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| **AUTORITÉ DES MARCHÉS FINANCIERS** | | | | | | |
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| Prosecutor | | | | | | |
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| v. | | | | | | |
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| **Michael Raso Cortellazzi**  **- and -**  **Antonio Savaris** | | | | | | |
| Defendants | | | | | | |
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| **SENTENCING JUDGMENT** | | | | | | |
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1. On January 18, 2023, the Court found the defendants guilty of influencing or attempting to influence, in and around Montreal, the market price or the value of securities by means of unfair, improper or fraudulent practices, in violation of s. 195.2 of the *Securities Act* *(SA*)*.*[[1]](#footnote-1)
2. The charges can be broken down as follows:

Michael Raso Cortellazzi (Raso Cortellazzi):

* Shares of HE-5 Resources Corporation (HRRN) (between February 27, 2007, and May 18, 2010) (Count 8)
* Shares of UMining Resources Inc. (UMNG) (between February 26, 2007, and July 20, 2010) (Count 9)
* Shares of Neuro Biotech Corp. (MRES) (between August 4 and November 5, 2010) (Count 10)

Antonio Savaris (Savaris):

* Shares of HE-5 Resources Corporation (between March 15 and August 15, 2010) (Count 6)
* Shares of Neuro Biotech Corp. (MRES) (between August 4 and December 29, 2010) (Count 7)

1. The prosecution seeks substantial fines for these defendants.

**Issues**

* What is the fair and appropriate sentence for each of these defendants?
* The prosecution called investigator Frédéric Laforge on sentencing so that he could testify on how the defendants and the Andrea Cortellazzi organization benefitted from the commission of the offences.
* The defence argues that investigator Laforge was not qualified to testify because he is not a forensic accountant.
* The defence also argues that the prosecution has not proved the profits generated by the scheme.
* The defence argues that the prosecution cannot attribute to the defendant Raso Cortellazzi the profits from his company MJRC Inc., which was not charged.

**Background**

1. On January 18, 2023, the Court found the defendants Raso Cortellazzi and Savaris guilty of influencing or attempting to influence the market price or the value of securities by means of unfair, improper or fraudulent practices.[[2]](#footnote-2)
2. The Court found that the defendants, who were members of the organization of the late Andrea Cortellazzi (the defendant Raso Cortellazzi’s father), committed acts that constitute fraudulent practices in the context of an illegal “pump and dump” scheme to influence or attempt to influence the stock market, namely, the market price or value of the securities of HE-5 Resources Corporation (HE-5), UMining Resources Inc. (UMining) and Neuro Biotech Corp. (Neuro Biotech).
3. They are micro-cap companies listed on the U.S. Over-the-Counter markets (“OTC markets”) and known as “Pink Sheets”. Their securities have a very low value and are called “penny stocks”.
4. The evidence establishes that the defendants and the other members of the organization participated in the various steps of the “pump and dump” scheme using “empty shell” companies, false documents, prête-noms, and misleading or exaggerated press releases. The steps of the scheme were the following:

* Issue shares for each of the companies;
* Create economic activities that appear legitimate for each of these companies;
* Promote the companies and their economic activities;
* Sell-off the securities of the companies;
* Collect the profits from those sales.

1. The Court found that the defendants participated in each of these steps, namely, by planning, drafting, and ultimately distributing the misleading or exaggerated press releases to investors in different markets. In addition, the defendants traded the securities of the companies named in the charges and made profits therefrom through brokerage accounts.
2. The defendants and other members of the organization benefitted from the profits realized. Those profits were also reinvested in the organization to finance the “pump and dump” scheme.
3. The Court found that the defendant Raso Cortellazzi was aware of what was happening within his father’s organization, and that he played an important part in it. The Court did not accept the defence’s arguments that the defendant was merely his father’s gofer, had no control, and thought the organization was legal.
4. The Court also found that the defendant Savaris performed tasks for the organization at different steps of the scheme, and that his role was not limited to editing the press releases, as the defence argued.

**Penalties under the *Act***

1. Now that the defendants have been convicted, the Court must impose the penalties prescribed in sections 202 para. 2, 204.1, 208.1 of the *SA*:

**204.1** In the case of a distribution without a prospectus in contravention of section 11 or 12 or an offence under section 195.2, 196, 197, 199.1 or 199.2, the minimum fine is $5,000, double the profit realized or one fifth of the sums invested, whichever is the greatest amount. The maximum fine is $5,000,000, four times the profit realized or half the sums invested, whichever is the greatest amount.

**208.1** Every person who makes a distribution of securities in contravention of section 11 or 12 or who contravenes any of sections 187 to 191.1, 195.2, 196 and 197, the first paragraph of sections 199.1 and 199.2 or any of sections 205, 207 and 208 is liable, regardless of the fine provided for in the applicable penal provision, to imprisonment not exceeding five years less one day, notwithstanding articles 231 and 348 of the Code of Penal Procedure

[Emphasis added]

**Testimony of investigator Laforge**

**Could investigator Laforge testify on the profits generated by the scheme even though he is not a forensic accountant?**

1. In the Court’s view, investigator Laforge was competent and qualified to testify on this issue, even though he is not a forensic accountant.
2. Indeed, the investigator compiled all the transactions on the securities concerned by the investigation using the US and Canadian brokerage accounts. Those transactions were filed into evidence at trial.
3. When questioned by the Court, the investigator said that he added the amounts for each account. Adding up numbers is within the reach of most individuals, without them necessarily having to be forensic accountants.
4. The results of the compilation were filed in an additional report under S-1.
5. For defendant Raso Cortellazzi, the results are as follows (US brokerage accounts and amounts in US dollars):

* Alpine Securities: $15,267 (HRRN)
* Stock USA Execution services Inc: $36,882.50 (HRRN)
* Vfinance Investments: $303.97 (HRRN)

For MJRC Inc.:

* Apex: $52,533.35 (MRES)
* JH Darbie & Co.: $91,206.33 (HRRN) and $30 (UMNG)

For defendant Savaris:

* Alpine Securities: $41,975.02 (HRRN)
* JH Darbie & Co.: $42,336.21 (MRES)

1. These figures were filed into evidence at trial and represent the defendants’ profits derived from the commission of the offences by trading and selling the securities.
2. The report filed by investigator Laforge also includes the profits realized by other persons or companies involved in the scheme and charged.
3. The total profits for the US brokerage accounts (including those of the defendants) is US$642,468.24.
4. The total profits for the Canadian brokerage accounts (which exclude the defendants) is CAN$336,444.91.
5. These profits realized through the “pump and dump” scheme also represent the amounts of which investors were deprived.

**Has the prosecution established the profit or profit realized by the defendants and/or the Cortellazzi organization?**

1. According to the defence, these amounts have not been proved. In support of that claim, the defence argues that at the time of the events, the amounts involving the defendants were in U.S. dollars and do not represent the actual amounts.
2. The Court rejects that argument.
3. For the prosecution, these amounts from the U.S. brokerage accounts were presented to the Court to provide an estimate of the profits realized by the defendants. It would have been problematic to convert them into Canadian dollars. For example, should the amount of each transaction be converted into Canadian dollars on the exact date it was made? Or should the total amount on a given date be converted?
4. The prosecution presented these amounts to calculate the minimum fine required by s. 204.1 *SA*, that is, “double the profit realized”. The Court is of the view that this amount may be estimated, whether in Canadian or U.S. dollars, as long as it provides a realistic but approximate idea of double the profit realized.
5. For purposes of comparison, the amount must be precise to determine the amount an individual must pay pursuant to s. 738 *Cr. C.*, that is, restitution, because it is set out in an order and the accused must know the amount to be paid.

**MJRC Inc.**

1. According to the defence, the profits realized by this company through the Andrea Cortellazzi organization’s scheme should not be attributed to the defendant Raso Cortellazzi because it is a separate legal person that has not been charged in this case.
2. MJRC Inc. was the company of just one man, the defendant, as it appears from the evidence adduced at trial. He was the principal officer of that company and the person who received the profits realized by the company. Defendant Raso Cortellazzi controlled the company.
3. Considering the evidence adduced at trial and the conclusions it drew from that evidence, the Court finds that the profits received by the company through the scheme may be attributed to the defendant.

**The sentences sought by the prosecution**

1. The minimum sentence suggested for each of the defendants is based on “double the profit realized”, as permitted by s. 204.1 *SA*.

**Raso Cortellazzi**

1. **Count No. 8: s. 195.2 *SA* (HE-5): minimum fine: $287,319 Penalty sought: $375,000**
2. **Count No. 9: s. 195.2 *SA* (UMining): minimum fine: $5,000 Penalty sought: $50,000**
3. **Count No. 10: s. 195.2 *SA* (Neuro Biotech): minimum fine: $105,066 Penalty sought: $155,000**
4. **Savaris**
5. **Count No. 6: s. 195.2 *SA* (HE-5): minimum fine: $83,950 Penalty sought: $125,000**
6. **Count No. 7: s. 195.2 *SA* (Neuro Biotech): minimum fine: $84,672 Penalty sought: $125,000**

**Sentencing principles in regulatory matters**

1. The prosecution presented a very detailed sentencing argument plan. Since these offences are regulatory, it is important at this stage of the judgment to distinguish between regulatory and criminal offences.
2. Like our colleague Claude Leblond, J.C.Q., in *R. c. Jean-Claude Sénécal*,[[3]](#footnote-3) it is worthwhile reproducing a lengthy excerpt addressing this issue from the judgment of the Honourable Alexandre Boucher, J.S.C. in *Ste-Marie*:[[4]](#footnote-4)

[translation]

[96] The line between regulatory penal offences and criminal offences is therefore well-established.

[97] The distinction necessarily implies that sentencing will be different. In particular, the sentencing objectives and offender’s degree of responsibility are not the same.

[98] The penalty imposed for the commission of a regulatory penal offence must be in line with the essentially remedial and preventive, rather than punitive, function of regulatory penal law. It should be recalled that the purpose of penal law is to protect the public by punishing breaches of standards of conduct and care governing certain regulatory activities. It is intended to promote compliance with applicable standards, not to punish a morally and socially reprehensible offence.

[99] Next, the gravity of the offences and the offender’s degree of responsibility, which are determinative concepts in sentencing (see in particular *R. v. Suter*, [2018] 2 SCR 496), are necessarily less important in regulatory matters than in criminal matters (*R. v. Maghera*, 2016 ABQB 50 at para 12). Here is what Cory J. wrote on the matter in *Wholesale Travel* at 218–219:

It has always been thought that there is a rational basis for distinguishing between crimes and regulatory offences. Acts or actions are criminal when they constitute conduct that is, in itself, so abhorrent to the basic values of human society that it ought to be prohibited completely. Murder, sexual assault, fraud, robbery and theft are all so repugnant to society that they are universally recognized as crimes. At the same time, some conduct is prohibited, not because it is inherently wrongful, but because unregulated activity would result in dangerous conditions being imposed upon members of society, especially those who are particularly vulnerable.

The objective of regulatory legislation is to protect the public or broad segments of the public (such as employees, consumers and motorists, to name but a few) from the potentially adverse effects of otherwise lawful activity. Regulatory legislation involves a shift of emphasis from the protection of individual interests and the deterrence and punishment of acts involving moral fault to the protection of public and societal interests. While criminal offences are usually designed to condemn and punish past, inherently wrongful conduct, regulatory measures are generally directed to the prevention of future harm through the enforcement of minimum standards of conduct and care. Regulatory legislation involves a shift of emphasis from the protection of individual interests and the deterrence and punishment of acts involving moral fault to the protection of public and societal interests. While criminal offences are usually designed to condemn and punish past, inherently wrongful conduct, regulatory measures are generally directed to the prevention of future harm through the enforcement of minimum standards of conduct and care.

It follows that regulatory offences and crimes embody different concepts of fault. Since regulatory offences are directed primarily not to conduct itself but to the consequences of conduct, conviction of a regulatory offence may be thought to import a significantly lesser degree of culpability than conviction of a true crime. The concept of fault in regulatory offences is based upon a reasonable care standard and, as such, does not imply moral blameworthiness in the same manner as criminal fault. Conviction for breach of a regulatory offence suggests nothing more than that the defendant has failed to meet a prescribed standard of care.

[translation]

[100] What, then, are the sentencing principles applicable to regulatory penal offences?

[101] It ought to be made clear at the outset that it is not necessarily wrong to refer to the principles of sentencing in criminal law, set out under sections 718 et seq. of the *Criminal Code*, to define the principles of sentencing in regulatory penal matters. The penological principles of criminal law, in particular, the principle of proportionality, establish a solid legal foundation upon which it is entirely appropriate to rely, with the necessary adaptations, in regulatory penal law.

[102] Also, the sentencing provisions of the *Criminal Code* can be a source of inspiration in regulatory penal law since these provisions constitute in many respects a codification of the common law (*R. v. Gladue*, [1999] 1 SCR 688 at para. 39; *R. v. Proulx*, [2000] 1 SCR 61 at para. 15) and the common law can serve as suppletive law in penal matters (*Autorité des marchés financiers c. Lacroix*, 2009 QCCA 1559 at para. 38).

[103] Moreover, the sentencing provisions of the *Criminal Code* are not entirely incompatible with those of the *Code of Penal Procedure*. In particular, art. 229 of the *Code of Penal Procedure* refers to the principle of proportionality in the following terms: “Where a judge convicts a defendant of an offence, he shall impose upon him a sentence within the limits prescribed by law, taking into account in particular the special circumstances relating to the offence or to the defendant and any period the of detention served by the defendant in respect of the offence”.

[104] It remains that there cannot be a blanket application of criminal law sentencing principles to penal matters.

[105] The sentencing judge in a regulatory penal matter can take inspiration from criminal law sentencing principles, while bearing in mind the fundamental distinction between a penal offence and a criminal offence.

[106] The essential function of penal law is to protect and safeguard the general welfare of the public. The main purpose of the penalty in this industry is to avoid the risks associated with certain regulatory activities by promoting respect for standards of conduct and care. Thus, above all, the penalty must be corrective and preventive.

[107] Next, the fundamental principle in sentencing remains that sentences must be proportionate to the gravity of the offence and the degree of responsibility of the offender. In regulatory penal matters, the gravity of the offence and the degree of responsibility of the offender must be carefully considered. As seen above, committing a penal offence is not the same as committing a crime. To promote respect for the standard of conduct and care, however, it is often necessary to emphasize deterrence.

[108] It is worthwhile referring to the six penological principles in regulatory penal matters developed by Professor Richard Macrory and cited by Libman J. in *R. v. Iacono,* 2015 ONCJ 609 at para. 47 (see also R. Libman, *Sentencing Purposes and Principles for Regulatory Offences: A New Approach for Regulatory Justice,* (2011) 15 Can. Crim. L. Rev*.* 359):

[47] Professor Macrory in his study of regulatory enforcement in the United Kingdom, puts forth the following six “penalties principles” as the basis for any sanctioning regime: (1) sanctions should change the behaviour of the offender; (2) sanctions should ensure there is no financial benefit obtained by non-compliance; (3) sanctions should be responsive, and consider what is appropriate for the particular offender and the particular regulatory regime; (4) sanctions should be proportionate to the nature of the offense and the harm caused; (5) sanctions should aim to restore the harm caused by the regulatory non-compliance; and (6) sanctions should aim to deter future non-compliance: see Richard Macrory, Regulatory Justice: Sanctioning in a post-Hampton World

(Consultation Document May 2006). [http://www.cabinetoffice.gov.uk/regulation/documents/pdf/penalties].

[translation]

[109] These principles, although not mandatory, certainly constitute a useful guide in sentencing regulatory penal matters.

[110] To avoid any misunderstanding, the Court states that a regulatory penal sentence should not be unreasonably lenient or accommodating. It is important to bear in mind that regulatory penal law plays a paramount role in the protection of the public and the maintenance of the general welfare. Sentencing is part of that role.

[111] Likewise, in accordance with the preventative nature of penal law, penal penalties often pursue the important objective of deterrence, namely, general deterrence. Thus, the sentence must ensure that the offender does not profit from breaches of regulatory standards. In other words, the sentence must not be considered a licence fee or [translation] “ un simple coût d’affaire”(*Sicotte c. Autorité des marchés financiers,* 2017 QCCA 1982 at para. 33*;* see also *Thibault c. Da Costa,* 2014 QCCA 2347 at para. 38; *Ontario (Labour) v. New Mex Canada Inc.,* 2019 ONCA 30 at para. 78; *Ontario (Labour) v. Flex-N-Gate Canada Company,* 2014 ONCA 53 at para. 22).

[112] Moreover, deterrence plays a particularly important role in securities and financial market offences, as illustrated by the penalties set out in the *SA*. In *Cartaway Resources Corp. (Re)*, [2004] 1 SCR 672, a case involving the British Columbia *Securities Act,* R.S.B.C*.* 196, c. 418, LeBel J. wrote at para.55:

55.  In this appeal we are asked whether it is reasonable to decide that general deterrence has a role to play in the policing of capital markets.  The conventional view is that participants in capital markets are rational actors.  This is probably more true of market systems than it is of social behaviour.  It is therefore reasonable to assume, particularly with reference to the expertise of the Commission in regulating capital markets, that general deterrence has a proper role to play in determining whether to make orders in the public interest and, if they choose to do so, the severity of those orders.

[translation]

[113] Quebec courts have followed suit and emphasized specific and general deterrence for *SA* offences (see in particular *Live c. Autorité des marchés financiers,* 2016 QCCS 5060 at paras. 64–66; *Autorité des marchés financiers c. Bossé,* 2017 QCCQ 15048 at paras. 17–36; *Autorité des marchés financiers c. Boivin,* 2014 QCCQ 869 at paras. 13–17; *Autorité des marchés financiers c. Greeley,* 2010 QCCQ 2879 at paras. 34–38).

[114] Moreover, s. 202 of the *SA* provides that “[i]n determining the penalty, the court shall take particular account of the harm done to the investors and the advantages derived from the offence.”

[115] In short, in regulatory penal matters, the penalty must be adapted to the regulatory context and essentially encourage compliance with applicable standards by correcting misconduct and preventing future breaches all while remaining proportionate to the circumstances of the offence and of the offender.

[116] In this case, the trial judge was correct in imposing severe penalties on the appellants. They committed serious offences under an important law that establishes standards to protect investors and maintain the public’s confidence in financial markets. The gravity of these offences must not be trivialized due to their economic nature. Economic offences cause significant harm to victims and to society as a whole. In addition, the harm done to investors and the advantages derived from the offences had to be considered. Deterrence must be the central objective of the penalty. Fines and the resultant prison sentences were appropriate.

[117] The appellants were not, however, convicted of fraud or any other crime. The judge erred in principle, namely in paragraphs 16 and 18 of his judgment on the sentence, in equating the regulatory penal offences of which the appellants were convicted to criminal offences.

[118] The error clearly unduly contributed to the severity of the penalties imposed. They are overly punitive.

[119] Therefore, the penalties must be corrected on appeal. The exercise is necessarily approximate, because it is difficult to precisely measure the error’s impact on the sentences imposed, especially since sentencing is based on the consideration of multiple factors and on a global analysis. In other words, it is difficult to attribute the error in principle committed to one portion of the sentence. Moreover, the rule of deference invites moderation in appellate review.

[120] In any event, the concurrent 18-month sentences imposed on Dax Ste-Marie are reduced to 15 months, the 36-month sentences imposed on Michel Ste-Marie are reduced to 30 months, and the 40-month sentences imposed on Richard Felx are reduced to 33 months.

[121] The fines are upheld. They are justified given the objective of deterrence. Moreover, they are appropriate given the gravity of the offences, namely with respect to the financial losses suffered by the investors.

[122] The appellants have not established any other error in sentencing.

[Emphasis added]

1. As Leblond J. noted in *Duval et Sénécal,* the defendants in *Ste-Marie* were facing 215 charges. The AMF alleged that, using companies, they solicited and collected funds from several investors for international investment purposes, in violation of certain requirements under the *SA* (from 2006 to 2008 a loss of approximately $1.2 million for investors). These offences involved distributions without a prospectus and acting as a broker without being registered as such with the AMF.

**Aggravating and mitigating circumstances**

**Aggravating circumstances**

The objective gravity of the offences

1. Sections 204.1 and 208.1 of the *SA* provide penalties that reflect significant objective gravity.
2. The minimum penalties are high, as is the maximum fine of $5 million. Moreover, as set out in s. 208.1 of the *Act*, in addition to the fine, the court can impose a term of imprisonment not exceeding five years less one day in the case of a contravention of s. 195.2 of the *SA*.

Harm caused to the markets

1. Several obligations of integrity and honesty are imposed on individuals, and on legal persons trading on the stock markets, so that people trading on the markets can do so based on clear, complete, honest, and timely information.
2. Confidence is essential to the proper functioning of the financial markets the *SA* seeks to protect.
3. As noted, the offence set out in s. 195.2 is one of the most serious offences under the *SA*, and a violation of that provision can only have a very negative impact on the markets and on investor confidence in them.
4. As established by the evidence adduced in this case, the defendants prepared and sent over the course of several months, if not years, fabricated press releases that were misleading and often exaggerated.
5. Crafting and sending the press releases was one of the major steps in the “pump and dump” scheme in which the defendants fully participated. Such actions undermine the confidence in our financial system.

Planning and premeditation, and the important role played by the defendants in the Andrea Cortellazzi organization

1. The evidence in this case establishes that the “pump and dump” scheme employed by the Andrea Cortellazzi organization was fabricated for the sole purpose of manipulating the market to generate profits for the members of the organization and its collaborators.
2. The Court found that the defendant Raso Cortellazzi was aware of the various steps of the scheme and that he performed tasks related to every one of those steps. The Court found that he was an active member of the organization and played a leading role.
3. The evidence also establishes that the various steps required for the scheme to work were planned. They were discussed in emails, including between members of the organization.
4. The Court also found that the defendant Savaris played an active role in the organization, that he participated in promoting the securities of the companies involved, but also in other steps of the scheme.

Defendant Savaris’s prior professional experience

1. This aggravating factor involves only this defendant.
2. As appears from the evidence filed at trial, prior to the commission of these offences, defendant Savaris was registered with the AMF from 2005 to 2009 such that he was authorized to sell investment products.
3. Due to his experience, he knew more about the investments than most people, and he knew how the markets operate.
4. He used brokerage accounts to sell shares that had been issued in his name. He knew that these shares had been issued on the basis of false documents.

Repetitive acts over a long period of time

1. The repetition of acts is an aggravating factor. As Leblond J. stated in *Duval et Sénécal*:[[5]](#footnote-5) [translation] “The longer the period over which the offences are committed, the more aggravating the circumstance”.
2. Here, in the case of each of defendant, the offences were committed over a long period of time.
3. For the defendant Savaris: duration of the offence: (Count No. 6): 5 months and 10 days: (Count No. 7): 4 months and 25 days.
4. For the defendant Cortellazzi: duration of the offence: (Count No. 8): 3 years, 2 months, and 22 days; (Count No. 9): 3 years, 4 months, and 24 days; (Count No. 10): 3 months and 1 day.
5. For the scheme to work, the defendants, along with the other members of the organization, had to repeatedly carry out several steps inherent to the scheme in a timely manner.

Profits derived from the offence

1. As appears from the transactions in each of the US brokerage accounts of the defendants, the profits are:
2. For the defendant Savaris: US$84,311.23.
3. For the defendant Raso Cortellazzi and his company MJRC Inc.: US$196,223.15.

Breach of trust

1. This is an aggravating circumstance under s. 718.2 (a)(iii) of the *Criminal Code*.
2. As appears from the evidence, the defendants were not the only ones to benefit, other members of the organization and their collaborators also profited from the shares they sold and traded using the scheme. These profits were shared among the individuals or reinvested in the scheme to ensure that it worked.
3. The scheme was entirely fraudulent and operated, among other things, based on the misleading information contained in the press releases. The defendants used the scheme to breach the trust of investors, who relied on this misleading information to invest.

**Mitigating circumstances**

1. There is no mitigating circumstance in this case.
2. During submissions on sentencing, the defence again argued, as it had done at trial, that the defendants were merely [translation] “small fish”.
3. In its judgment dated January 18, 2023, the Court rejected that argument and concluded that the defendants were key players in the organization.
4. Nor does the Court accept the argument that Andrea Cortellazzi misused the defendant Savaris. As appears from the Court’s decision, defendant Savaris was certainly destitute when he started working for Andrea Cortellazzi, but eventually found his niche. Furthermore, the defendant was well versed in investment matters.
5. The defence also argued that defendant Raso Cortellazzi was young at the time the offences were committed. It is true that the defendant was young. Nevertheless, he appears to have been well aware of how the organization worked and in control of the situation.

**Other Project Consortium decisions**

1. The defendants were arrested as part of a vast investigation by the Autorité des marchés financiers named Consortium. Here are the results of certain sentences imposed on individuals involved in the Andrea Cortellazzi organization.

**Michel de Montigny[[6]](#footnote-6)**

1. Michel de Montigny testified for the prosecution at the defendants’ trial. He participated in the scheme with several individuals, including the defendants.
2. On September 15, 2016, he pleaded guilty to 3 counts of market manipulation under s. 195. 2 of the *SA*. Pursuant to a joint submission, he was fined $1.25 million.

**Daniel F. Ryan[[7]](#footnote-7)**

1. On March 22, 2017, Daniel F. Ryan pleaded guilty to 3 counts of market manipulation under s. 195.2 of the *SA*. He was involved in the scheme from July 16, 2009, to February 11, 2010, that is, a period of 7 months. Pursuant to a joint submission, he was fined $225,000.
2. Daniel F. Ryan was the organization’s promoter and acted on various levels.

**Serge Ollu[[8]](#footnote-8)**

1. On April 3, 2018, Serge Ollu pleaded guilty to 3 counts of market manipulation under s. 195. 2 of the *SA*. Pursuant to a joint submission, he was fined a total amount of $1.5 million.
2. Like the other persons sentenced in this project, he participated in the “pump and dump” scheme with the defendants and other individuals.
3. The revenue generated from the sale of shares, either through brokerage accounts in his name or controlled by him, totalled US$1.1 million.

**Jean-François Amyot[[9]](#footnote-9)**

1. On April 18, 2017, Jean-François Amyot pleaded guilty to 5 counts of market manipulation under s. 195.2 and other offences under the *SA*.
2. Pursuant to a joint submission, he was fined a total amount of $9 million and sentenced to 90 days’ imprisonment, to be served intermittently.
3. It goes without saying that his role in the organization was much more important than that of the defendants.
4. For example, revenue of $5.4 million was generated in one of the brokerage accounts he held with one of his collaborators, Francis Mailhot.

**Francis Mailhot[[10]](#footnote-10)**

1. On March 30, 2017, Francis Mailhot pleaded guilty to 3 counts of market manipulation under s. 195.2 and other charges under the *SA*.
2. Pursuant to a joint submission, he was fined a total amount of $3.5 million.
3. He was Jean-François Amyot’s partner and made profits of several million dollars.

**Eric Boyd[[11]](#footnote-11)**

1. On April 19, 2017, Eric Boyd pleaded guilty to 1 count of market manipulation under s. 195.2 of the *SA*. Pursuant to a joint submission, he was fined $30,000.
2. He was involved in recruiting promoters and preparing and distributing press releases. He was on the lowest rung of the organization.

**Decision**

1. The Court is of the view that the numerous aggravating factors require that substantial fines be imposed on the defendants to reflect their degree of responsibility and the gravity of the offences.
2. In this case, the objective of both specific and general deterrence is of great importance. The numerous aggravating factors listed in this judgment, combined with the case law according to which the objectives of denunciation, deterrence, and making an example must prevail, justify the sentences sought by the prosecution.
3. Indeed, deterrence must be at the heart of this matter. The actions of the defendants and of all those who participated in the “pump and dump” scheme used by the Andrea Cortellazzi organization caused immense harm to the securities market, and are likely to undermine investor confidence in the market.
4. The fines suggested by the prosecution are a good reflection of the principle of proportionality for the defendants, given the various aggravating factors listed in this judgment, the lack of mitigating factors, and the sentences imposed on other members of the organization.

**For these reasons, the Court imposes:**

**Antonio Savaris**

**Count No. 6: a fine of $125,000 and costs.**

**Count No. 7: a fine of $125,000 and costs.**

**Michael Raso Cortellazzi**

**Count No. 8: a fine of $375,000 and costs.**

**Count No. 9: a fine of $50,000 and costs.**

**Count No. 10: a fine of $155,000 and costs.**

**The defendants have 18 months to pay the fines and the costs.**

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| Mtre Sébastien Simard  Mtre Marie-Michelle Côté | | |
| Counsel for the prosecution | | |
|  | | |
| Mtre Tom Pentefountas  Counsel for Antonio Savaris | | |
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| Mtre George Calaritis  Counsel for Michael Raso Cortellazzi | | |
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| Date of hearing: May 15, 2023 | | |
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1. CQLR,c. V-1.1. [↑](#footnote-ref-1)
2. *Autorité des marchés financiers, c. Cortellazzi,* 2023 QCCQ 4290 [↑](#footnote-ref-2)
3. *R. c.* *Daniel Duval et* *Jean-Claude Sénécal* (22 June 2020) C.Q.,Montreal, 500–61–381029–140 and 500–61–381030–148. [↑](#footnote-ref-3)
4. *Ste-Marie* *c. Autorité des marchés financiers*, 2019 QCCS 2811. [↑](#footnote-ref-4)
5. *R. c.* *Daniel Duval et Jean-Claude Sénécal* (22 June 2020) C.Q., Montreal, 500–61–381029–140 and 500–61–381030–148.

   [↑](#footnote-ref-5)
6. *Autorité des marchés financiers c. Michel de Montigny* (9 September 2016), C.Q., Montreal, 500–61–406125. [↑](#footnote-ref-6)
7. *Autorité des marchés financiers* *c.* *Ryan* (22 March 2017) C.Q., Montreal, 500–61–406591–156. [↑](#footnote-ref-7)
8. *Autorité des marchés financiers* *c. Ollu* (April 6, 2018) C.Q., Montreal, 500–61-406125–04. [↑](#footnote-ref-8)
9. *Autorité des marchés financiers c*. *Amyot* (18 April 2017) C.Q., Montreal, 500–61-395492–144. [↑](#footnote-ref-9)
10. *Autorité des marchés financiers c.* *Mailhot* (30 March 2017) C.Q., Montreal, 500–61–395492–144. [↑](#footnote-ref-10)
11. *Autorité des marchés financiers*, *c*. *Boyd* (19 April 2017) C.Q., Montreal, 500–61–395492-144. [↑](#footnote-ref-11)