**Translated from the original French**

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| Autorité des marchés financiers c. Langford Sharp | | | 2024 QCTMF 83 |
| FINANCIAL MARKETS ADMINISTRATIVE TRIBUNAL | | | |
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| CANADA | | | |
| PROVINCE OF QUEBEC | | | |
| MONTREAL | | | |
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| FILE No.: | 2017-008 | | |
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| DECISION No.: | 2017-008-004 | | |
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| DATE: | December 6, 2024 | | |
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| BEFORE THE ADMINISTRATIVE JUDGE: | | Mtre JEAN-PIERRE CRISTEL | | |
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| AUTORITÉ DES MARCHÉS FINANCIERS | | | |
| Applicant | | | |
| v. | | | |
| FREDERICK LANGFORD SHARP | | | |
| and | | | |
| **SOLO INTERNATIONAL INC.**  and | | | |
| MICHEL PLANTE | | | |
| and | | | |
| VINCENZO ANTONIO CARNOVALE | | | |
| and | | | |
| PASQUALE ANTONIO ROCCA | | | |
| and | | | |
| SHAWN VAN DAMME | | | |
| Respondents | | | |
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| DECISION | | | |
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**OVERVIEW**

1. On April 20, 2017,[[1]](#footnote-1) the Autorité des marchés financiers (the “Authority”) submitted an application for administrative penalties, a prohibition from acting as a director or officer, and a cease trading order against the respondents Michel Plante, Solo International Inc. (“Solo”), Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme.
2. Essentially, the Authority alleges that the respondents took part in a pump and dump scheme to manipulate the share price of a mining exploration corporation, more specifically, the respondent Solo – a reporting issuer subject to the *Securities Act*[[2]](#footnote-2) – and that they thereby committed serious breaches to sections 195.2 and 199.1 of the *Securities Act*.
3. On May 11, 2017, the respondent Michel Plante submitted an interim application with the Tribunal to dismiss the proceeding against him. This interim application was dismissed by the Tribunal on April 24, 2018.[[3]](#footnote-3)
4. On June 7, 2017, the respondents Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme submitted an interim application with the Tribunal for a declinatory exception, followed by Frederick Langford Sharp, who did the same on June 26, 2017. On November 22, 2017, the Tribunal dismissed these interim applications for a declinatory exception.[[4]](#footnote-4)
5. On December 21, 2017, the Tribunal was informed that the respondents Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme had filed applications with the Superior Court for judicial review of its decision dated November 22, 2017. On January 9, 2019, the Superior Court upheld the decision rendered by the Tribunal on November 22, 2017.[[5]](#footnote-5)
6. On March 15, 2019, the Court of Appeal granted the respondents Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme leave to appeal from the Superior Court judgment rendered on January 9, 2019.[[6]](#footnote-6)
7. On May 27, 2019, the respondent Michel Plante submitted to the Tribunal another interim application for a stay of the proceedings against him in which he basically alleged that there was an unreasonable delay in this case, causing him significant prejudice. On September 18, 2019, the Tribunal dismissed this second interim application filed by respondent Michel Plante.[[7]](#footnote-7)
8. On September 15, 2021, the Court of Appeal dismissed the appeal of the respondents Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme, upholding the Superior Court judgment dated January 9, 2019,[[8]](#footnote-8) itself upholding the Tribunal’s decision dated November 22, 2017.
9. On November 15, 2021, The Tribunal was informed that these respondents, including Frederick Langford Sharp, had sought leave from the Supreme Court to appeal from the Court of Appeal judgment dated September 15, 2021. Leave to appeal was granted by the Supreme Court on April 28, 2022.[[9]](#footnote-9)
10. Moreover, on February 2, 2022, the Court of Appeal granted the respondents’ application to stay the execution of the Court of Appeal judgment dated September 15, 2021, and to stay proceedings until the Supreme Court’s ruling.[[10]](#footnote-10)
11. On November 17, 2023, the Supreme Court of Canada dismissed[[11]](#footnote-11) the appeal of the aforementioned respondents and, just over six years after it was rendered, confirmed the Tribunal’s decision dated November 22, 2017, dismissing the interim application for a declinatory exception brought by the respondents Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme.
12. On September 13, 2024, the respondent Frederick Langford Sharp submitted another interim application to the Tribunal for a stay of the proceedings against him in which he basically alleges that there was an unreasonable delay in this case that caused him significant prejudice.
13. The Authority contests this new interim application by the respondent Frederick Langford Sharp.
14. The Tribunal must therefore answer the follow question: [translation] “Must the Tribunal, in the public interest, put an end to the administrative proceedings brought by the Authority on April 20, 2017, against the respondent Frederick Langford Sharp?”
15. For the reasons set out in the analysis below, the Tribunal will answer this question in the negative.

**ANALYSIS**

***Question at issue: “Must the Tribunal, in the public interest, put an end to the administrative proceedings brought by the Authority on April 20, 2017, against the respondent Frederick Langford Sharp?”***

1. For the reasons given below, the Tribunal will answer this question with a “no”.
2. The Tribunal first recalls that, in this case, the Authority alleges that all the respondents participated in implementing a massive and sophisticated scheme to manipulate the respondent Solo’s share price, which scheme had transnational scope and elements. The Authority also alleges that this scheme allowed them to make illegal profits totalling $2,6 million, at the expense of other investors who purchased shares of Solo, a reporting issuer subject to the *Securities Act*.[[12]](#footnote-12)
3. The Tribunal has yet to hear the Authority’s originating pleading on the merits in this case. The Tribunal therefore states that its analysis of this most recent interim application by the respondent Frederick Langford Sharp, which seeks to stay the proceedings against him, must be performed taking as proved the facts alleged in the Authority’s originating pleading, which was filed on April 20, 2017, and later amended on May 10, 2024.
4. The Tribunal states that it has already rendered three decisions on interim applications presented by one or more respondents.
5. The first decision, rendered on November 22, 2017,[[13]](#footnote-13) dismissed the preliminary applications for declinatory exceptions presented to the Tribunal in June 2017 by the respondents Frederick Langford Sharp, Vincenzo Antonio Carnovale, Pasquale Antonio Rocca, and Shawn Van Damme. In that decision, the Tribunal indicated, in particular, that by taking as proved the facts alleged by the Authority, it was clear that there is a real and substantial link between the alleged scheme and Quebec, and between the aforementioned respondents and Quebec. That decision was subsequently upheld by the Superior Court on January 9, 2019, by the Court of Appeal on September 15, 2021, and by the Supreme Court on November 17, 2023, the whole in the context of an application for judicial review sought by these respondents, which basically took six years to complete, during which time they expressly asked and obtained a stay of the proceedings before the Tribunal with respect to the originating pleading filed by the Authority against them.
6. The second decision, rendered on April 24, 2018,[[14]](#footnote-14) dismissed a preliminary application presented to the Tribunal by the respondent Michel Plante on May 11, 2017. In that decision, the Tribunal indicated, in particular, that by taking as proved the facts alleged by the Authority, it did not consider the Authority’s application to be frivolous or unfounded with respect to that respondent.
7. In the third decision, rendered on September 18, 2019, the Tribunal dismissed another interim application presented on May 27, 2019, by the respondent Michel Plante for a stay of proceedings. In that interim application, the respondent Michel Plante basically alleged that unreasonable delays affected this file that caused him significant prejudice.
8. The Tribunal emphasizes that it is in this context that the respondent Frederick Langford Sharp now alleges, in a new interim application dated September 13, 2024, that he is suffering significant prejudice from the delays mentioned above.
9. In this respect, it is important to recall that the *Securities Act* contains no prescriptive period for administrative proceedings brought before the Tribunal.
10. The *Act* does provide a five-year prescriptive period[[15]](#footnote-15) for penal proceedings, which runs from the date on which the investigation record is opened until proceedings are instituted. However, this case is not a penal proceeding instituted by the Authority before the Court of Québec pursuant to the *Securities Act*, but an administrative proceeding brought before the Tribunal, seeking preventive and deterrent orders under sections 265, 273.1, and 273.3 of the *Securities Act* to protect the public interest.
11. The Tribunal notes that in this administrative proceeding, between the beginning of the investigation on November 16, 2012, and the filing with the Tribunal of the Authority’s originating pleading on April 20, 2017, a period of five years did not pass, despite this case including a complex transnational element involving the Authority seeking information and evidence from several foreign regulators.
12. In this respect, the Tribunal recalls that the Authority alleges that all the respondents, including the respondent Frederick Langford Sharp, implemented their scheme by using a panoply of dummy corporations[[16]](#footnote-16) and bank accounts outside Quebec, in such far-flung jurisdictions as the Republic of the Marshall Islands, the Federation of Saint Christopher and Nevis in the Lesser Antilles, the Independent State of Samoa, and Belize.
13. In light of the circumstances surrounding this case and the complex transnational aspect of the investigation undertaken by the Authority, the Tribunal does not consider the delay of less than five years stated in paragraph 26 of this decision to be undue or clearly unacceptable.
14. Furthermore, as the Supreme Court noted in *Blencoe,*[[17]](#footnote-17)“delay, without more, will not warrant a stay of proceedings as an abuse of process at common law”.[[18]](#footnote-18) “In the administrative law context, there must be proof of significant prejudice which results from an unacceptable delay”.[[19]](#footnote-19) “Staying proceedings for the mere passage of time would be tantamount to imposing a judicially created limitation period”,[[20]](#footnote-20) which in the Tribunal’s opinion, is not desirable in administrative law, especially with respect to securities market regulation.
15. Also, in *Blencoe*, the Supreme Court added the following:

[122] The determination of whether a delay has become inordinate depends on the nature of the case and its complexity, the facts and issues, the purpose and nature of the proceedings, whether the respondent contributed to the delay or waived the delay, and other circumstances of the case. As previously mentioned, the determination of whether a delay is inordinate is not based on the length of the delay alone, but on contextual factors, including the nature of the various rights at stake in the proceedings, in the attempt to determine whether the community’s sense of fairness would be offended by the delay.

1. Finally, in *Abrametz*,[[21]](#footnote-21) the Supreme Court explicitly refused to apply the *Jordan*[[22]](#footnote-22) approach to administrative proceedings:

[47] However, there are important reasons why *Jordan* does not apply to administrative proceedings. Jordan deals with the right to be tried within a reasonable time under s. 11(b) of the *Canadian Charter of Rights and Freedom*. No such *Charter* right applies to administrative proceedings. As such, there is no constitutional right outside the criminal context to be “tried” within a reasonable time.

1. The Tribunal finds that it is clear that the delay caused by the progression of all the interim applications, the applications for judicial review, and the appeals brought by the respondents in this case cannot be imputed to the Authority.
2. In this regard, it is worth pointing out that the judicial review process for the Tribunal’s decision dated November 22, 2017, instituted by the respondent Frederick Langford Sharp with the respondents Carnovale, Rocca, and Van Damme, essentially took six of the seven years and seven months that have passed since the Authority’s originating pleading was filed in this case, on April 20, 2017.
3. What is more, all the time that passed since this originating pleading was filed was basically spent by the Tribunal addressing all the various interim applications filed by the respondents, while awaiting the end of the judicial review process described above, and—since the process came to an end on November 17, 2023—allowing new counsel for the respondent Frederick Langford Sharp to familiarize himself with the file and give him a reasonable amount of time to decide with his client whether they wanted to file a new interim application. They did so on September 13, 2024, by filing an application with the Tribunal for a stay of the proceedings against the respondent Frederick Langford Sharp, basically alleging that the delays in this file were unreasonable and caused him significant prejudice.
4. The respondent Frederick Langford Sharp alleges that he suffered prejudice to his reputation as well as ongoing financial inconveniences and stress. Because the respondent Frederick Langford Sharp did not testify at the hearing of November 29, 2024, and his interim application is unsupported by any affidavit signed by him, the Tribunal is of the view that the above allegations do not constitute evidence of these inconveniences.
5. Moreover, the Tribunal indicates that this type of annoyance is inherent to being a party to a legal proceeding like the one currently involving the respondent Frederick Langford Sharp in this case.
6. The multiplication of interim applications, judicial review applications, and appeals brought by the respondents, including the respondent Frederick Langford Sharp, can only contribute to prolonging the above stated annoyances.
7. The respondent Frederick Langford Sharp alleges that these delays also cause significant prejudice to his right to make full answer and defence, in particular because additional evidence was disclosed by the Authority in 2024, in some cases following requests for additional information made directly to the Authority by counsel for some of the respondents and because some of the hyperlinks appearing in the documents disclosed in evidence are no longer functional.
8. The Tribunal recalls that the originating application filed by the Authority against the respondents is 16 pages long and includes 111 paragraphs referring to 49 exhibits, which were all disclosed to the respondents in 2017. Counsel for the Authority clearly indicated at the hearing that it is this evidence the regulator intends to use to make its case when the time comes for the Tribunal to hear the originating pleading referred to above on the merits, not the additional evidence subsequently disclosed to the respondents at their request and/or in the spirit of transparency.
9. In this respect, the Tribunal states that, in *May*,[[23]](#footnote-23) the Supreme Court established that the standard of disclosure that applies in criminal cases does not apply in the administrative context. Thus, in an administrative proceeding “… the duty of procedural fairness generally requires that the decision-maker discloses the information he or she relied upon. The requirement is that the individual must know the case he or she has to meet”.
10. With regard to the no-longer-functional hyperlinks in certain documents disclosed in evidence, the Tribunal would point out that a hyperlink that is not functional today is not an indication that a document, to which it gave access, was not duly gathered from a website, several years earlier, during an investigation by the Authority.
11. What is more, an allegation that a hyperlink that is no longer functional is not evidence that the integrity of a document, gathered several years earlier during an investigation, was not duly protected until the document could be filed in the record at a Tribunal hearing.
12. In this respect, the Tribunal recalls section 7 of the *Act to establish a legal framework for information technology*,[[24]](#footnote-24) which establishes the following:

**7.** It is not necessary to prove that the medium of a document or that the processes, systems or technology used to communicate by means of a document ensure its integrity, unless the person contesting the admission of the document establishes, upon a preponderance of evidence, that the integrity of the document has been affected.

1. The Tribunal has yet to hear the Authority’s originating pleading on the merits in this case. It cannot currently assess the probative value of the evidence the regulator intends to file in support of this application, no more than it can assess the probative value of the defence evidence presented by all the respondents, and by the respondent Frederick Langford Sharp in particular.
2. However, the Tribunal recalls that in its originating pleading, the Authority alleges that the respondent Frederick Langford Sharp played a [translation] “central role” in the pump and dump scheme affecting the price of the respondent Solo’s shares and that he is the signatory for the bank accounts of several of the dummy corporations used to conceal his involvement in the scheme.
3. The Authority also alleges that, in its promotion, this scheme used press releases issued publicly by the respondent Solo and publications on several websites accessible to Quebec residents.
4. According to the Authority, this scheme allowed the respondents to make illegal profits totalling over $2.6 million, at the expense of other investors who purchased shares of the respondent Solo, a reporting issuer subject to the *Securities Act*.
5. In the context of this interim application by the respondent Frederick Langford Sharp, the Tribunal must take as proved all the allegations in the Authority’s originating pleading.
6. The allegations against the respondents in the originating pleading involve serious breaches of the *Securities Act*.
7. The Tribunal points out that this application was presented by the market regulator duly mandated by the legislature to protect investors and the integrity of financial markets.
8. The Tribunal is of the view that it is clear the Authority bears absolutely no responsibility for the time that has elapsed in this file since the Authority’s originating pleading was filed on April 20, 2017. What is more, the Tribunal is of the view that the respondent Frederick Langford Sharp has presented no probative evidence that he suffered a significant prejudice due to this period of time.
9. Consequently, the Tribunal considers that it is in the public interest to hear on its merits the Authority’s originating pleading against all the respondents and, in particular, against the respondent Frederick Langford Sharp.
10. Moreover, the Tribunal recalls that the Authority will have the burden, at the hearing, of supporting its allegations against each of the respondents with probative evidence on a balance of probabilities to convince the Tribunal to implement all the conclusions sought in its originating pleading in the public interest.
11. During that hearing, the respondents will have access to all the evidence available to the Tribunal to render its decision. Furthermore, all the respondents will then have the opportunity to fully present their own documentary and testimonial evidence, cross-examine the Authority’s witnesses, and present a complete argument.
12. Accordingly, after having duly considered the interim application for a stay of proceedings brought by the respondent Frederick Langford Sharp and the arguments and case law presented by counsel for the parties, the Tribunal finds that it must, in the public interest, dismiss it.

**FOR THESE REASONS**, the Financial Markets Administrative Tribunal, in the public interest and pursuant to sections 93 and 97 of the *Act respecting the regulation of the financial sector*:[[25]](#footnote-25)

**DISMISSES** the interim application of the respondent Frederick Langford Sharp for a stay of the proceedings against him.

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| Mtre Stéphanie Jolin and MtreÉric Blais | |
| (Litigation Services, Autorité des marchés financiers) | |
| Counsel for the Autorité des marchés financiers | |
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| Mtre Alexandre Giroux  Counsel for Frederick Langford Sharp | |
|  | |
| Mtre Fanny Albrecht  (LCM avocats)  Counsel for Shawn Van Damme, Vincenzo Antonio Carnovale, and Pasquale Antonio Rocca | |
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| Date of hearing: | November 29, 2024 |

1. On May 10, 2024, the Authority amended its initial pleading and list of exhibits. [↑](#footnote-ref-1)
2. CQLR, c. V-1.1 (“SA”). [↑](#footnote-ref-2)
3. *Autorité des marchés financiers* *c.* *Plante*, 2018 QCTMF 41. [↑](#footnote-ref-3)
4. *Autorité des marchés financiers* *c.* *Solo International inc.*, 2017 QCTMF 114. [↑](#footnote-ref-4)
5. *Langford Sharp c.* *Financial Markets Administrative Tribunal*, 2019 QCCS 9. [↑](#footnote-ref-5)
6. *Langford Sharp* *c.* *Autorité des marchés financiers*, 2019 QCCA 449. [↑](#footnote-ref-6)
7. *Autorité des marchés financiers c.* *Plante*, 2019 QCTMF 50. [↑](#footnote-ref-7)
8. *Langford Sharp* *c.* *Autorité des marchés financiers*, 2021 QCCA 1364. [↑](#footnote-ref-8)
9. *Frederick Langford Sharp, et al.* *v.* *Autorité des Marchés Financiers, et al*., 2022 CanLII 32916 (SCC). [↑](#footnote-ref-9)
10. *Langford Sharp c. Autorité des marchés financiers*, 2022 QCCA 152. [↑](#footnote-ref-10)
11. *Sharp v. Autorité des marchés financiers*, 2023 SCC 29. [↑](#footnote-ref-11)
12. CQLR, c. V-1.1. (“*S.A.*”). [↑](#footnote-ref-12)
13. *Autorité des marchés financiers* *c.* *Solo International inc.*, 2017 QCTMF 114. [↑](#footnote-ref-13)
14. *Autorité des marchés financiers* *c.* *Plante*, 2018 QCTMF 41. [↑](#footnote-ref-14)
15. Section 211 *S.A.* [↑](#footnote-ref-15)
16. See paragraphs 75 and 76 of *Autorité des marchés financiers* c. *Solo International inc.*, 2017 QCTMF 114: Craigstone Ltd., Ventura Capital SA, Tandem Growth LLC / Terra Euity LLC, Peaceful Lion Hordings Ltd., Morris Capital Inc., Futuna Ltd and Anatom Associates SA. [↑](#footnote-ref-16)
17. *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44. [↑](#footnote-ref-17)
18. *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44 at para. 101. [↑](#footnote-ref-18)
19. *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44 at para. 101. [↑](#footnote-ref-19)
20. *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44 at para. 101. [↑](#footnote-ref-20)
21. *Law Society of Saskatchewan v.* *Abrametz*, 2022 SCC 29. [↑](#footnote-ref-21)
22. *R. v. Jordan*, [2016] 1 S.C.R. 631, 2016 SCC 27 (CanLII). [↑](#footnote-ref-22)
23. *May v. Ferndale Institution*, [2005] 3 S.C.R. 809, 2005 SCC 82 at paras. 91 and 92. [↑](#footnote-ref-23)
24. CQLR, c. C-1.1. [↑](#footnote-ref-24)
25. CQLR, c. E-6.1. [↑](#footnote-ref-25)