

2002 BCSECCOM 537

COR#02/071

Decision

Jesse J. Hogan

Section 161 of the *Securities Act*, RSBC 1996, c. 418

Hearing

Panel	Adrienne Salvail-Lopez	Commissioner
	Joan L. Brockman	Commissioner
	Roy Wares	Commissioner

Date of Hearing March 25, 2002

Date of Decision June 19, 2002

Appearing

Joseph A. Bernardo For Commission Staff

Paul G. Kent-Snowsell For Jesse J. Hogan

Decision of the Commission

Introduction

[para 1]

These findings relate to a hearing under section 161 of the *Securities Act*, RSBC 1996, c. 418. The Executive Director issued a notice of hearing in this matter on 1 August 2001, and amended it on 19 September 2001. The notice of hearing alleges that Hogan disseminated false information about five companies through the internet while trading in their securities and, in doing so:

1. acted as an adviser without being registered;
2. made misrepresentations with the intention of effecting a trade in a security;
3. engaged in a series of transactions relating to a trade in a security that resulted in, or contributed to, an artificial price for a security; and
4. brought the capital markets of British Columbia into disrepute and acted contrary to the public interest by conducting misleading trading activities and perpetrating a fraud on the public.

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[para 2]

Hogan signed an agreed statement of facts on 22 January 2002. The hearing was held on 25 March 2002.

Background

[para 3]

Hogan is in his mid-twenties and lives in Burnaby, British Columbia. He is employed as a sorter for a delivery service and as a salesperson at a tool store in Burnaby. He has never been registered under the Act.

[para 4]

During the summer of 2000, Hogan had access to four e-mail accounts, which were provided through three internet service providers. Hogan was able to use these e-mail accounts not only to send e-mail messages to other internet users, but to post messages on electronic bulletin boards or message boards and to participate in discussions in electronic chat rooms.

[para 5]

The internet sites that host these bulletin boards, message boards and chat rooms generally specify that a person, by choosing to use these facilities, agrees to accept certain terms of service or disclaimers.

[para 6]

For example, Hogan posted messages to message boards hosted by Yahoo.com. The Yahoo site provides that “[b]y submitting your registration information, you indicate that you agree to the Terms of Service”. The Yahoo terms of service include the following provisions:

6. MEMBER CONDUCT

... You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. In this regard, you acknowledge that you may not rely on any Content created by Yahoo or submitted to Yahoo, including without limitation information in Yahoo! Message Boards, Yahoo! Clubs, and in all other parts of the Service. ...

18. LIMITATION OF LIABILITY

You expressly understand and agree that Yahoo shall not be liable for ... (iv) statements or conduct of any third party on the Service; ...

20. SPECIAL ADMONITION FOR SERVICES RELATING TO FINANCIAL MATTERS

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If you intend to create or join any service, receive or request any news, messages, alerts or other information from the Service concerning companies, stock quotes, investments or securities, please read the above Sections 17 and 18 again. They go doubly for you. In addition, for this type of information particularly, the phrase “Let the investor beware” is apt. The Service is provided for informational purposes only, and no Content included in the Service is intended for trading or investing purposes. Yahoo and its licensors shall not be responsible or liable for the accuracy, usefulness or availability of any information transmitted or made available via the Service, and shall not be responsible or liable for any trading or investment decisions made based on such information.

[para 7]

Another site used by Hogan, InternetPlays.com, describes itself as “The Intelligent Financial Community Newsletter”. The site provides that “[e]ntering any of the chat rooms below signifies your acceptance of the following disclaimer”. The disclaimer reads partly as follows:

Internetplays.com and contributors do not guarantee the accuracy or veracity of any statements made in the Member Chat, and is not responsible for actions taken based on information provided or statements made in the chat.

...

It is strongly recommended that any purchase or sale decisions be discussed with a financial advisor or broker prior to completing any such purchase or sale decision. All statements or expressions are the opinion of Internetplays.com and contributors and are not meant to be a solicitation or recommendation to buy, sell, or hold securities. Investing in embryonic companies, micro-cap, and growth securities is highly speculative and carries a high degree of risk. It is possible that an investor can lose all of his/her investment in these types of companies that are mentioned.

...

Lastly, all advice and commentary viewed and acted upon through the InternetPlays message and/or chat room is of ones own choice, and InternetPlays cannot be held responsible for any consequences that come from ones own decision.

[para 8]

Another site used by Hogan was siliconinvestor.com. The site provides that, “by completing the registration process and clicking the “I accept” button, you are agreeing to be bound by all terms and conditions set forth in this Silicon Investor terms of use agreement.” The agreement provides in part as follows:

2. MEMBER CONDUCT

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2.1 The Service includes information, views, opinions and recommendations of individuals and organizations of interest to the investment community.

Go2Net assumes no responsibility for the accuracy, currency, completeness or usefulness of information in any material available via the Service and it does not endorse any opinions or recommendations posted by members, nor does it give tax or investment advice or advocate the purchase or sale of any security or investment. You should exercise discretion and scepticism before relying on information in messages, since it may be incorrect or misleading. Members may pretend to be people that they are not. Some members may have dishonest and/or deceitful intentions or may have inaccurate information – so beware! You should make an independent investigation before making any financial decisions, and if you rely on information posted by other members you do so solely at your own risk.

...

10. ADDITIONAL DISCLAIMER AND WARNING

10.1 The Securities Exchange Commission has expressed concerns that the stock price for companies with small market capitalization (also known as “small cap”, “micro cap” or “penny” stocks) may be particularly susceptible to manipulation. Therefore, you should carefully evaluate the information posted by other members about such stocks.

[para 9]

During the summer of 2000, Hogan posted thousands of messages to bulletin boards at various internet sites using fourteen nicknames or aliases, such as stockboy2002 and acuransx_2000. These messages related to five companies, each of whose shares were quoted on the National Association of Securities Dealers Over-the-Counter Bulletin Board.

[para 10]

In the following paragraphs relating to the five companies, all dates are in 2000 and all amounts are in US dollars.

1. Astrocom Corporation

[para 11]

Astrocom designs, manufactures and sells electronic products used for digital data communications. Its trading symbol is ATCC. During the trading week of Monday 10 to Friday 14 July, Astrocom’s average closing price was \$0.45625 and its average daily trading volume was 18,660. On Monday 17, the closing price was \$0.41 on a volume of 36,500 shares.

[para 12]

Between Tuesday 18 and Thursday 20, Hogan purchased 25,000 shares for \$11,260.16. His average cost per share was \$0.45. On Tuesday 18, Astrocom closed at \$0.4375 on a

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volume of 15,500 shares. On Wednesday 19, it closed at \$0.4375 on a volume of 2,000 shares.

[para 13]

On Thursday 20 and Friday 21, Hogan posted 436 messages on hundreds of internet message boards. The messages contained the following false statements:

“JDSU to acquire ATCC (Nasdaq; OTCBB)”

“JDS Uniphase is reportedly acquiring all of Astrocom’s outstanding shares for \$7.00 cash per share.”

“Astrocom is highly likely to be acquired due to consolidation of the Broadband, Wireless and Fibreoptic networking industry.”

“Looks like ATCC is gaping up big on level 2”

[para 14]

On Thursday 20, Astrocom closed at \$0.4925 on a volume of 62,000 shares. On Friday 21, it closed at \$0.75 on a volume of 1,647,200 shares. The high that day was \$1.5625.

[para 15]

Hogan sold all of his shares on Friday 21, realizing a profit of \$12,158.85.

[para 16]

Subsequently, both price and volume dropped considerably. A week later, on Friday 28, Astrocom closed at \$0.45 on a volume of 46,200 shares.

2. **MicroTel International, Inc.**

[para 17]

MicroTel designs, manufactures and markets materials for the telecommunications industry. Its trading symbol is MCTL. During the week of Monday 17 to Friday 21 July, MicroTel’s average closing price was \$0.541 and its average daily trading volume was 48,840.

[para 18]

On Monday 24 and Tuesday 25, Hogan purchased a total of 20,000 shares for \$10,800.00. His average cost per share was \$0.54. On Monday 24, MicroTel closed at \$0.55 on a volume of 49,700 shares. On Tuesday 25, it closed at \$0.50 on a volume of 34,000 shares. On Wednesday 26, it closed at \$0.515625 on a volume of 39,100 shares.

[para 19]

Between the close of market on Wednesday 26 and 1:43 am on Thursday 27, Hogan posted 468 messages on hundreds of message boards. The messages contained the following false statements:

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“Rumours are circulating that MCTL ... is a likely takeover candidate. The company is likely to be bought and for a minimum of \$5 per share according to sources close to the company. Likely companies to takeover MCTL include Lucent Technologies and FS Networks.”

[para 20]

On Thursday 27, MicroTel's price closed at \$0.625 on a volume of 925,100 shares. The high that day was \$0.875.

[para 21]

Hogan sold all of his shares on Thursday 27, realizing a profit of \$2,674.68.

[para 22]

By the end of the following week, Friday 4 August, the price closed at \$0.6875 on a volume of 12,700 shares.

3. AM Communications, Inc.

[para 23]

AM provides professional services to the cable television and broadband industry. Its trading symbol is AMCM. From Monday 24 to Wednesday 26 July, AM's average closing price was \$0.59375 and its daily trading volume was 20,433.

[para 24]

Between Thursday 27 and Monday 31, Hogan purchased 29,000 shares for \$18,444.47. His average cost per share was \$0.64. On Thursday 27, AM closed at \$0.57 on a volume of 71,800 shares. On Friday 28, it closed at \$0.625 on a volume of 75,000 shares.

[para 25]

On Sunday 30 and Monday 31, Hogan posted 422 messages on hundreds of message boards and sent e-mail messages to individuals in the United States. The messages contained the following false statements:

“MOT [Motorola Inc.], HILT [Harmonic, Inc.] likely to buy out AMCM”

“Motorola ... and Harmonic ... are likely to takeover AM Communications for approximately \$8.00 in cash and stock. Both have strong ties with AM Communications and are currently global partners with the company.”

“AMCM moving on good volume. Earnings on Thursday.”

“AMCM is really moving. Now at \$1.03 ... we may see \$2 today”

“AMCM at \$1.15 now. Big Gap tomorrow morning.”

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“I’m very confident AMCM will be bought out. Also, AMCM should gap up big tomorrow in anticipation of the earnings and CC.”

[para 26]

On Monday 31, AM closed at \$1.01 on a volume of 619,200 shares. The high that day was \$1.15625. On Tuesday 1 August, the share price closed at \$0.85 on a volume of 172,100 shares.

[para 27]

Hogan sold all of his shares on 31 July and 1 August, realizing a profit of \$5,524.75.

[para 28]

Over the next three days, both price and volume dropped. On Friday 4 August, AM closed at \$0.8125 on a volume of 97,400 shares.

4. Egan Systems, Inc.

[para 29]

Egan develops, sells and supports software related to the COBOL computer language. Its trading symbol is EGNS. During the week of Monday 7 to Friday 11 August, Egan’s average closing price was \$0.068 and its average daily trading volume was 8,600 shares. On Monday 14, Egan closed at \$0.10 on a volume of 37,900 shares. On Tuesday 15, there was no trading in the shares.

[para 30]

On Wednesday 16 and Thursday 17, Hogan purchased a total of 160,000 shares for \$19,564.12. His average cost per share was \$0.12.

[para 31]

Also on Wednesday 16 and Thursday 17, Hogan posted several hundred messages on various message boards. The messages contained the following false statements:

“CORL [Corel Corporation] to acquire ENGS.”

“Software developer of LINUX products, Corel (CORL:NASDAQ), is reportedly acquiring all of the outstanding shares of Egan Systems (EGNS:NASDAQ OTC-BB) for \$1.50 in cash and stock.”

[para 32]

On Wednesday 16, Egan closed at \$0.12 on a volume of 594,300 shares. On Thursday 17, it closed at \$0.19 on a volume of 2,354,800 shares. The high that day was \$0.30.

[para 33]

Hogan sold all of his shares on Thursday 17, realizing a profit of \$18,741.13.

[para 34]

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By the end of the following week, Friday 25, the price closed at \$0.14 on a volume of 32,300 shares.

5. RSI Systems, Inc.

[para 35]

RSI manufactures, designs and markets video conferencing systems. Its trading symbol is RSIS. In the four trading days before Friday 18 August, RSI's average closing price was \$0.30906 and its average daily trading volume was 14,075. On Friday 18, RSI closed at \$.3125 on a volume of 28,600.

[para 36]

Between Friday 18 and Monday 21, Hogan purchased 25,000 shares for \$8,617.21. His average cost per share was \$0.34.

[para 37]

On Monday 21 and Tuesday 22, Hogan posted 573 messages on hundreds of internet message boards and sent e-mail messages to individuals in the United States. The messages contained the following false statements:

“RSI Systems was rumoured to be bought out from two potential bidders listed on the NASDAQ. RSI would be bought out for approximately \$4.00 in cash and stock.”

“RSIS is now at \$0.59 and moving up fast. Should hit \$1.50 today.”

[para 38]

On Monday 21, RSI closed at \$0.375 on a volume of 50,000 shares. On Tuesday 22 RSI closed at \$0.50 on a volume of 289,600 shares.

[para 39]

Hogan sold all of his shares on Tuesday 22, realizing a profit of \$2,653.52.

[para 40]

Over the next three days, both price and volume dropped, closing the week on Friday 25 at \$0.40625 on a volume of 2,100 shares.

[para 41]

On 14 September 2000, the Commission issued an order under section 151 of the Act freezing a brokerage account and a bank account held by Hogan.

[para 42]

On 15 January 2002, the United States District Court issued an order of permanent injunction against Hogan, on the application of the Securities and Exchange Commission. Pursuant to the order, Hogan is permanently enjoined from using any means of interstate

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commerce, the mails or any national securities exchange to commit a fraud or make a misrepresentation in connection with the purchase or sale of securities.

[para 43]

On 22 January 2002, Hogan signed an agreed statement of facts, in which he admitted that:

1. he knew the messages he posted and e-mail messages he sent respecting the five companies were false;
2. he posted the messages and sent the e-mail messages intending to create the appearance of trading activity in the companies' shares;
3. the postings caused the price of the companies' shares to rise; and
4. he bought and sold the companies' shares to profit from the artificially high prices caused by his misrepresentations.

Analysis and Findings

[para 44]

In the notice of hearing, Commission staff allege that Hogan:

1. acted as adviser without being registered, contrary to section 34(1)(c) of the Act;
2. with the intention of effecting a trade in a security, made statements that he knew were misrepresentations, contrary to section 50(1)(d) of the Act;
3. engaged in a series of transactions relating to a trade in or acquisition of a security when he knew, or ought reasonably to have known, that the series of transactions would result in or contribute to an artificial price for the security, contrary to section 57.1(a) of the Act; and
4. brought the capital markets of British Columbia into disrepute and acted contrary to the public interest by conducting misleading trading activities and perpetrating a fraud on the public.

1. Advising without registration

[para 45]

Section 34(1)(c) of the Act provides as follows:

34.(1) A person must not

...

(c) act as an adviser unless the person is registered in accordance with the regulations as

- (i) an adviser, or
- (ii) an advising employee, partner, director or officer of a registered adviser and is acting on behalf of that adviser.

[para 46]

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An “adviser” is defined in section 1(1) of the Act as a person engaging in, or holding himself out as engaging in, the business of advising another with respect to investment in or the purchase or sale of securities.

[para 47]

The Commission considered this definition in *Re Robert Anthony Donas* [1995] 14 BCSC Weekly Summary 39. The Commission observed at page 44 that:

The first issue to be determined is whether Donas was ‘engaging in, or holding himself out as engaging in, the business of advising another with respect to investment in or the purchase or sale of securities’. The concise Oxford Dictionary of Current English (1990 ed.) defines ‘advice’ as ‘words given or offered as an opinion or recommendation about future action or behavior ...’
...

As indicated by the definition of “advice”, the nature of the information given or offered by a person is the key factor in determining whether that person is advising with respect to investment in or the purchase or sale of securities. A person who does nothing more than provide factual information about an issuer and its business activities is not advising in securities. A person who recommends an investment in an issuer or the purchase or sale of an issuer’s securities, or who distributes or offers an opinion on the investment merits of an issuer or an issuer’s securities, is advising in securities. If a person advising in securities is distributing or offering the advice in a manner that reflects a business purpose, the person is required to be registered under the Act.

[para 48]

Hogan clearly provided more than factual information about the five companies in his messages. They included phrases such as: “Should hit \$1.50 today.”; “The company is likely to be bought and for a minimum of \$5 per share.”; and “Looks like ATCC is gaping up big on level 2”. We conclude that, by making the statements he did, Hogan was distributing an opinion on the investment merits of these securities.

[para 49]

Commission staff argued that Hogan offered this advice with a specific business purpose, namely to push up the price of the shares in these companies and encourage people to buy them, to Hogan’s ultimate advantage.

[para 50]

We agree that Hogan posted and sent the messages about the five companies to push up the share price and encourage people to buy the shares. We also agree that Hogan did this in order to make a profit from the sale of his shares. However, we do not agree that this, in and of itself, constitutes the “business of advising”.

[para 51]

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Therefore, we find that Hogan did not act as an adviser and did not contravene section 34(1)(c) of the Act.

2. *Misrepresentation*

[para 52]

Section 50(1)(d) of the Act provides as follows:

50.(1) A person, while engaging in investor relations activities or with the intention of effecting a trade in a security, must not do any of the following:

...

(d) make a statement that the person knows, or ought reasonably to know, is a misrepresentation.

[para 53]

“Misrepresentation” is defined in section 1(1) of the Act to include an untrue statement of a material fact. A “material fact” is defined in section 1(1) of the Act as a fact that significantly affects or could reasonably be expected to significantly affect the market price or value of the security.

[para 54]

Hogan admitted that he knew the statements he made in his message board postings and e-mail messages were false. He also admitted that these statements caused the quoted share prices of the five companies to rise. Finally, Hogan admitted that he had bought and sold shares in the five companies to profit from the artificially high prices caused by his false statements.

[para 55]

We are of the view that, in all five cases, the price rise caused by Hogan’s statements was significant; the increase from the closing price on the day before the statements were made to the closing price on the last day the statements were made ranged from 21% in the case of MicroTel to 90% in the case of Egan.

[para 56]

Consequently, we find that Hogan, with the intention of effecting trades in the securities of Astrocom, MicroTel, AM, Egan and RSI, made statements about those companies that he knew were misrepresentations, contrary to section 50(1)(d) of the Act.

3. *Artificial price*

[para 57]

Section 57.1(a) of the Act provides as follows:

57.1 A person in British Columbia must not, directly or indirectly, engage in or participate in a transaction or series of transactions relating to a trade in or acquisition of a security or a trade in an exchange contract if the person knows, or ought reasonably to know, that the transaction or series of transactions

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- (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, any security or exchange contract anywhere, ...

[para 58]

Hogan argued that posting messages on message boards and sending e-mail messages were not “transactions” for the purpose of section 57.1. He submitted that “transactions” in that section refer only to, in the words of Hogan’s counsel, “stock trades”, specifically “a trade or a number of trades, the intention of which is to manipulate the market”.

[para 59]

We are of the view that Hogan’s interpretation is too narrow for two reasons.

[para 60]

First, a “trade” is defined in section 1(1) of the Act. The definition includes a disposition of a security for valuable consideration, and “any act, advertisement, solicitation, conduct or negotiation, directly or indirectly in furtherance of” the disposition. Hogan admitted that he bought and sold the shares of the five companies to profit from the artificially high prices caused by his misrepresentations. Consequently, we are of the view that Hogan’s dissemination of misrepresentations about the five companies were acts in furtherance of his disposition of the securities of the five companies and therefore were themselves trades.

[para 61]

Second, had the Legislature intended the section to have the meaning suggested by Hogan, it could have left out entirely the words “a transaction or series of transactions relating to” and referred only to a person engaging or participating in a trade in or acquisition of a security. As the Legislature chose to include those words, we must assume that they were intended to expand the activities to be prohibited beyond the actual acquisition or sale of securities.

[para 62]

We conclude that “a transaction or series of transactions relating to a trade in or acquisition of a security” would include all of Hogan’s acts in respect of each of the five companies: his acquisition of shares in the company; his posting and e-mailing misrepresentations about the company to increase trading activity and share price; and his sale of the shares at the artificially high prices caused by his misrepresentations. We are also of the view that Hogan knew his activities would result in an artificially high price for the shares of each of these companies; he admitted that he had bought and sold shares in each company to profit from the artificially high price caused by his misrepresentations.

[para 63]

Therefore, we find that Hogan manipulated the market by engaging in a series of transactions relating to trades in and acquisition of securities of Astrocom, MicroTel,

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AM, Egan and RSI that he knew would result in artificial prices for the securities, contrary to section 57.1(a) of the Act.

4. Public interest

[para 64]

The notice of hearing alleges that “Hogan brought the capital markets of British Columbia into disrepute and acted contrary to the public interest by conducting misleading trading activity from a place situated within British Columbia and perpetrated a fraud on the public who may have relied on the messages posted on the Internet for trading information.”

[para 65]

Commission staff did not make submissions regarding misleading trading activity or fraud. However, they did submit that Hogan’s conduct impaired the integrity of the capital markets and was therefore contrary to the public interest.

[para 66]

Hogan, on the other hand, argued not only that he had not contravened any section of the Act, but that his activities had not adversely affected the capital markets or been contrary to the public interest. The essence of his argument was that the internet is a new medium that has changed the expectations of the public and thus requires a different regulatory approach. He made three points in support of his argument.

[para 67]

The first is that the people who are reading message boards and participating in chat rooms have, by choosing to use these facilities, agreed to accept the terms of service and disclaimers found on the internet site hosting the facilities. These terms and disclaimers generally provide that the person bears all risks associated with using any of the information found on the site. Some sites provide more specific warnings, such as:

“Let the investor beware.”

“The service is provided for informational purposes only and no content included in the service is intended for trading or investing purposes.”

“It is strongly recommended that any purchase or sale decisions be discussed with a financial advisor or broker prior to completing any such purchase or sale decision.”

“You should exercise discretion and scepticism before relying on information in messages, since it may be incorrect or misleading. Members may pretend to be people that they are not. Some members may have dishonest and/or deceitful intentions or may have inaccurate information – so beware!”

[para 68]

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Commission staff pointed out that any exclusions of liability found at an internet site are for the benefit of the internet site and do not affect Hogan's, or anybody else's, obligations under securities legislation. Terms of service, disclaimers or warnings, Commission staff submitted, do not give users of these sites a licence to lie.

[para 69]

Hogan's second point was that it would be patently unreasonable for a person to make investment decisions based on information on message boards or chat rooms. Hogan suggested the people accessing this information have read the warnings, know that the internet is anonymous and subject to abuse, and govern their conduct accordingly.

[para 70]

However, as Commission staff pointed out, many people did make investment decisions on the basis of the misrepresentations posted and e-mailed by Hogan; trading volume and price increased significantly in all five companies immediately after Hogan made his misrepresentations. Commission staff argued that Hogan actually relied on there being enough unreasonable and gullible people, who would believe his misrepresentations and buy the shares, to drive up the price and allow Hogan to sell his shares at a profit.

[para 71]

Hogan's third point was that the internet has created a new community, a type of internet subculture. The members of that subculture, Hogan submitted, are technically savvy and understand how the game is played. As Hogan's counsel put it in his submissions:

How is it reasonable to expect anything I post in there given all of that disclaimer information to affect the market at large? Or is the whole point of the exercise people in these chatrooms to get a momentum going? That is specifically stated as the purpose of Internetplays.com. That's what we're here to do. Let's get everyone talking. Let's get everyone going. Let's get it moving.

"It" apparently refers to a company's share price and trading volume.

[para 72]

Commission staff pointed out that it was not only the members of this "subculture" that were affected by Hogan's internet activities. They submitted that Hogan's misrepresentations were clearly reflected in the share prices of these five companies and, therefore, that anyone purchasing or selling shares at these prices was doing so on the basis of false information. It necessarily follows, said Commission staff, that some of these people would suffer losses when the share prices returned to their true levels.

[para 73]

We accept all of Commission staff's arguments in respect of Hogan's three points and reject Hogan's call for a different regulatory approach towards the internet. To adopt the words of counsel for Commission staff, we are of the view that just because the internet "has vulnerabilities does not justify the exploitation of those vulnerabilities."

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[para 74]

Hogan exploited the vulnerabilities of the internet to widely disseminate misrepresentations about five companies and, in doing so, conduct a blatant and highly effective market manipulation in respect of their shares. Unlike the classic manipulation, which typically involves a number of people and a complex program of trading activity, Hogan's scheme was simple, sweeping and fast.

[para 75]

We find that Hogan's misrepresentations and market manipulation seriously impaired the integrity of the capital markets and were contrary to the public interest.

Orders

[para 76]

We have found that Hogan contravened sections 50(1)(d) and 57.1(a) of the Act and acted contrary to the public interest.

[para 77]

We will hear further submissions before issuing orders in respect of our findings. Those submissions should include an update respecting the freeze order issued on 14 September 2000. If the parties wish to make written submissions, we direct Commission staff to file their submissions and send a copy to Hogan by 26 July 2002, and Hogan to file his submissions and send a copy to Commission staff by 30 August 2002. If the parties wish to make oral submissions, we direct them to contact the Commission Secretary before 2 August 2002, to fix a date for the hearing of those submissions.

June 19, 2002

[para 78]

For the Commission

Adrienne Salvail-Lopez
Commissioner

Joan L. Brockman
Commissioner

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Roy Wares
Commissioner