

**ALBERTA SECURITIES COMMISSION**

**NOTICE OF HEARING**

**Citation:** Lavallee, Re, 2007 ABASC 753

**Date:** 20071012

**Docket:** E00311

*Securities Act R.S.A. 2000, c. S-4 (Act)*

**To:** Lambert Joseph Lavallee

**Notice:** The Alberta Securities Commission (Commission) will convene on Tuesday, the 13<sup>th</sup> day of November, 2007, at 9:00 a.m., to set a date for a hearing, in Edmonton, or elsewhere in Alberta, to consider whether it is in the public interest to order:

(i) Under section 198(1)(a) and (b) of the *Act*, that you cease trading in respect of any security or exchange contract or in respect of specified securities or exchange contracts;

(ii) Under section 198(1)(c) of the *Act*, that all of the exemptions contained in the Alberta securities laws do not apply to you;

(iii) Under sections 198(1)(d) and (e) of the *Act*, that you resign all positions that you hold as a director or officer of any issuer, and that you be prohibited from becoming or acting as such;

(iv) Under section 199 of the *Act*, that you pay an administrative penalty to the Commission;

(v) Under sections 202(1) and (2) of the *Act*, that you pay the costs of the investigation and hearing to the Commission; and

(vi) Such other order as may be appropriate under sections 198, 199 and 202 of the *Act*.

**Location:** Alberta Securities Commission, 6<sup>th</sup> Floor, 300 – 5<sup>th</sup> Avenue SW, Calgary, Alberta.

**Procedure:**

1. You may obtain particulars of the allegations in this Notice prior to the hearing from Don Young, Alberta Securities Commission, 4<sup>th</sup> Floor, 300-5 Ave. S.W. Calgary. AB, T2P 3C4, Phone 297- 4079.

2. You may be represented by legal counsel at the hearing and you or your counsel may make representations and introduce relevant evidence.

3. If you or your counsel fails to attend on Tuesday, the 13<sup>th</sup> day of November 2007, or as directed, the hearing may proceed in your absence and an order made against you without further notice.

*See also section 29 of the Act.*

## ALLEGATIONS

### *Summary of Breaches*

1 Staff of the Commission (Staff) alleges that Lambert Joseph Lavallee (Lavallee) engaged in illegal trades and distributions of the securities of Genoray Advanced Technologies Ltd. (Genoray).

2 Staff alleges that Lavallee made prohibited statements and misrepresentations to investors with the intention of effecting trades in Genoray securities.

3 Staff alleges that Lavallee failed to file insider reports as and when required.

4 Staff alleges that Lavallee's activities were contrary to the public interest.

### *Parties*

5 Genoray was incorporated in Alberta in 1995 under the name Shadow Capital Corp. It subsequently changed its name to Soundcache.com Inc. in 1999 and then to Genoray in April 2002. Genoray has its head office in Edmonton, Alberta, and at all material times was a reporting issuer as defined in subsection 1(ccc) of the *Act*. Genoray has never filed a preliminary and final prospectus with nor obtained a receipt from the Executive Director of the Commission (Executive Director), for the distribution of any securities.

6 Lavallee is a resident of Edmonton Alberta. He has never been registered in any capacity with the Executive Director. Lavallee was or acted in a capacity similar to that of a director and officer of Genoray. In addition, Lavallee was the owner, beneficial or otherwise, of 20,055,000 of the 39,534,239 issued and outstanding common shares of Genoray. As the holder of more than 20% of the issued and outstanding securities of Genoray, Lavallee was by definition a control person of Genoray under the *Act*.

### *Circumstances*

#### **Genoray illegal distribution**

7 Between March 2002 and June 2002, Lavallee sold or participated in the sale of securities of Genoray to approximately 186 Alberta residents (the Genoray Investors), raising in excess of \$3,300,000 (the Genoray Funds).

8 The Genoray Investors entered into written sales agreements with Lavallee for the purchase of the Genoray securities, and Lavallee was represented in the agreements as the owner and vendor of the Genoray securities.

9 Staff alleges that the sales of the Genoray securities by Lavallee to the Genoray Investors were trades as defined in the *Act*. Further, as trades in previously issued securities of an issuer from the holdings of a control person, Staff alleges that the sales constituted a distribution under the *Act*.

### **Prohibited Representations**

10 Lavallee made a statement to the Genoray Investors, or some of them, that the Genoray Funds would be used to acquire x-ray technology. In fact, approximately \$2,000,000 of the Genoray Funds was used personally by Lavallee and others for payment of commissions, salaries, fees, and personal expenses.

11 Lavallee made additional statements to the Genoray Investors, or some of them, particulars of which include the following:

11.1 The Genoray securities would trade at between US\$3.00 - \$4.00;

11.2 The Genoray securities would soon be trading on the US Pink Sheets and would receive a trading symbol;

11.3 The Genoray Funds would be held by Richard Kearn "in trust";

11.4 The Genoray Funds would be used for capitalization of Genoray;

11.5 The Genoray Investors were purchasing free-trading shares; and

11.6 The Genoray Investors were purchasing shares from treasury.

12 At no time did Lavallee have the written permission of the Executive Director to make representations that the Genoray securities would be listed on any exchange or quoted on any quotation and trade reporting system.

13 Further, Staff alleges that Lavallee made the statements to the Genoray Investors when he knew, or ought reasonably to have known, that they were misleading or untrue, or that there was a failure to state a fact necessary to make a statement not misleading.

### **Insider Reports**

14 As a director and officer of Genoray, or as a person who beneficially owned, directly or indirectly, voting securities of Genoray carrying more than 10% of the voting rights attached to all securities, Lavallee was an insider of Genoray at the material times.

15 Lavallee failed to file a report with the Executive Director disclosing that he was a direct or indirect beneficial owner of, or that he exercised discretion or control over, 20,055,000 securities of Genoray as at May 3, 2002.

16 Further, Lavallee failed to file reports with the Executive Director disclosing that due to sales of Genoray securities to the Genoray Investors, his direct or indirect ownership of or control or direction over securities of Genoray had changed from that required to be shown in the initial or a previous report.

**Breaches**

17 As a result of the above, Staff alleges that:

17.1 Lavallee breached section 75(1)(a) of the *Act* by trading in securities of Genoray without registration with the Executive Director as a salesperson and without any appropriate exemptions;

17.2 Lavallee breached section 110 of the *Act* by engaging in a distribution of the securities of Genoray without filing with the Executive Director and receiving a receipt for a preliminary or final prospectus, and without any appropriate exemptions;

17.3 Lavallee breached section 92(3)(b) of the *Act* by making a representation, without the written permission of the Executive Director, that the securities of Genoray would be listed on an exchange or quoted on any quotation and trade reporting system;

17.4 Lavallee breached section 92(4.1) of the *Act* (formerly 92(3)(c)), by making statements that he knew or ought reasonably to have known were false or misleading or which failed to state a fact necessary to make a statement not misleading; and

17.5 Lavallee breached section 182 of the *Act* by failing to file an insider reports when due.

18 As a result of Lavallee’s disregard for the registration and prospectus requirements, the false or misleading statements, and the failure to comply with the insider reporting obligations in the Act, Staff also alleges that Lavallee acted contrary to the public interest.

DATED at Calgary, Alberta	)	ALBERTA SECURITIES COMMISSION
	)	
this <u>12<sup>th</sup></u> day of October, 2007.	)	“original signed by”
	)	_____
	)	John P. Petch
	)	Director, Enforcement