

ALBERTA SECURITIES COMMISSION

Citation: Re Magneson, 2018 ABASC 68

Docket: ENF-011386

Date: 20180502

**NOTICE OF HEARING**

**To:** Allan Robert Magneson, 1111108 Alberta Ltd., and New Wave Innovations Ltd.

**Notice:** The Alberta Securities Commission (**Commission**) will convene at 3:00 p.m. on 11 day, July, 2018, at Calgary, Alberta, to set a date for a hearing about the allegations in this Notice (**Set Date**). At the hearing, the Commission will consider whether it is in the public interest to make orders against you under sections 198, 199, and 202 of the *Securities Act*, RSA 2000, c. S-4, as amended (*Act*).

**Location:** Alberta Securities Commission, 5<sup>th</sup> Floor, 250 – 5 Street SW, Calgary, Alberta.

**Procedure:**

1. You may obtain disclosure and particulars of the allegations in this Notice from Tom McCartney, c/o Alberta Securities Commission, 600, 250 - 5 Street SW, Calgary, Alberta, T2P 0R4, telephone: 403-355-4480, email: tom.mccartney@asc.ca.
2. You may be represented by legal counsel and you or your counsel may make representations and introduce relevant evidence.
3. If you or your counsel fail to attend on the Set Date, or as directed, the hearing may proceed in your absence and an order may be made against you without further notice.

*See attached sections 29, 198, 199, and 202 of the Act, and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.*

**Reciprocation:** Take notice that orders or settlements made by the Commission may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to you. If an order is made or a settlement agreement is reached in relation to this Notice, you should contact the securities regulator of any other jurisdiction in which you intend to engage in any securities related activities.

## **Allegations**

### *Parties*

1. New Wave Innovations Ltd. (**New Wave**) was incorporated in Alberta on July 10, 2003, and carried on business in Sherwood Park, Alberta. Allan Robert Magneson (**Magneson**) was New Wave's sole director from incorporation and throughout the times material to these proceedings. New Wave has been developing a dental drill with air-bearing turbine technology (**Drill**) that does not emit a high pitched whine like a standard dental drill.
2. 1111108 Alberta Ltd. (**Numberco**) was incorporated in Alberta on June 2, 2004, and carries on business in Sherwood Park, Alberta. Magneson and his wife, Sharon Magneson, alternated as its sole director from incorporation and throughout the times material to these proceedings. Magneson used Numberco as a conduit to divert investor funds to himself and his family.
3. Magneson was the guiding mind and authorized all of the acts of New Wave and Numberco.

### *Funds Raised and Securities Sold*

4. Between June 1, 2011 and December 31, 2016 (**Relevant Time**), New Wave and Magneson raised about \$6.62 million by selling shares to about 168 investors, including 142 Albertans.
5. About \$4.6 million worth of shares were sold from New Wave's treasury, and about \$2 million worth of shares were sold by Magneson personally.

### *Fraud*

6. Magneson told investors that the funds raised from the sale of shares issued from New Wave's treasury, and the sale of his shares, would be used to develop and market the Drill.
7. Contrary to what investors were told, Magneson caused New Wave to divert about \$4,143,129 of the funds raised to himself, and for the benefit of his wife and daughters.
8. Specifically, during the Relevant Time, New Wave paid:
  - (a) \$4,866,872 to Numberco;
  - (b) \$227,700 to Magneson;
  - (c) \$169,680 in cash withdrawals;
  - (d) \$150,340 towards vehicles for Magneson and his family; and
  - (e) \$121,226 towards retail purchases for Magneson and his family.

9. Of the \$4,866,872 paid by New Wave to Numberco during the Relevant Time, Numberco paid:
- (a) \$1.42 million towards loans related to residential properties held by Magneson and/or his wife, Sharon Magneson;
  - (b) \$1.13 million to Magneson's daughters, Alyson Letwin and Carmen Martens;
  - (c) \$105,300 to Magneson;
  - (d) \$168,981 in cash withdrawals;
  - (e) \$155,832 to insurance companies for Magneson and his family;
  - (f) \$116,509 towards vehicles for Magneson and his family;
  - (g) \$101,423 towards utilities for Magneson and his family;
  - (h) \$111,811 for property taxes for Magneson and his family;
  - (i) \$125,827 on credit cards for Magneson and his family; and
  - (j) \$38,500 to Magnesons' wife, Sharon Magneson.
10. Magneson caused New Wave and Numberco to transfer these funds without informing or seeking the approval of New Wave's investors.
11. The Respondents deliberately withheld this information from New Wave's investors with the intent to deceive them about how their funds were spent.
12. As a result of the transfers, New Wave lost the use of these funds, and its pecuniary interests were put at risk.

*Breaches*

13. As a result of the above, Staff allege that the Respondents breached section 93(b) of the *Act* when they engaged in a course of conduct that they knew or ought to have known perpetrated a fraud on New Wave's investors.

Calgary, Alberta, 2 May, 2018.

) ALBERTA SECURITIES COMMISSION  
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 ) David C. Linder, Q.C.  
 ) Executive Director