

IN THE MATTER OF THE *SECURITIES ACT*,  
S.N.B. 2004, c. S-5.5

AND IN THE MATTER OF

**GEORGE WAYNE MALLET** (a.k.a. "Wayne Mallett"),  
**VILLABAR REAL ESTATE INC.**,  
**ST. CLAIR RESEARCH ASSOCIATES INC.**,  
**RONALD A. MEDOFF** and **MAYER HOFFER**

(Respondents)

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**AMENDED STATEMENT OF ALLEGATIONS**  
(of Staff of the New Brunswick Securities Commission)

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1. George Wayne Mallett ("Mallett") is an individual resident at 39 Emily's Lane, Little Shemogue, New Brunswick. Mallett has never been registered with the New Brunswick Securities Commission.
2. Villabar Real Estate Inc. ("Villabar") is a company with a head office located in Toronto. Villabar is in the business of syndicating real estate investments in the exempt market.
3. St. Clair Research Associates Inc. ("St. Clair") is an affiliate of Villabar, located in Ontario.
4. Ronald A. Medoff ("Medoff") is an individual resident in Ontario and is the president of Villabar and St. Clair.
5. Mayer Hoffer ("Hoffer") is an individual resident in Ontario and is the Vice President of Villabar.

The Brant Park Inn Distribution

6. On or about 1 May 2008, St. Clair and Villabar (the "Villabar Group") engaged Mallett to provide various services related to business conducted by the Villabar Group in New Brunswick, including acts in furtherance of the Brant Park Inn Limited Partnership distribution (the "Brant Park Partnership" and the "Brant Park Partnership Distribution", respectively).

7. Mallett was paid \$6,700 per month during this engagement, which began on 1 May 2008 and ended 30 April 2009. As such, Mallett was paid \$80,400 plus HST pursuant to this engagement.
8. In May and/or June 2008, Mallett acted as a salesperson in connection with the Brant Park Partnership Distribution to New Brunswick investors including D.L., S.M., M.M., and J.B, four residents located in the Saint John area.
9. These investors attended a presentation concerning the Brant Park Partnership Distribution conducted by Mallett and others, and then subsequently met Mallett at a Saint John restaurant to finalize their investments in the Brant Park Partnership. Mallett answered questions, distributed documents, accepted investments funds, and paid for the meal served during the meeting.

#### Mallett's misrepresentations to an Investigator

10. On 15 August 2008, the Commission issued an Investigation Order pursuant to section 171(1) of the *Securities Act*, S.N.B. 2004, c. S-5.5, (the "*Securities Act*") naming Mallett as one of the subjects of the investigation (the "Investigation Order").
11. On 15 August 2008, a Commission investigator appointed under the Investigation Order (the "Investigator") sent Mallett a demand to produce certain documents pursuant to section 172(3) of the *Securities Act*.
12. Mallett responded to the demand for documents by representing, *inter alia*, that he had not sold securities to New Brunswick clients since 1 January 2007, and that he had not received any financial benefits relating to the marketing of securities during this same period.
13. On 28 August 2008, the Investigator issued a summons to Mallett pursuant to section 173 of the *Securities Act* (the "Summons"). The Summons required Mallett to attend and give evidence on 5 September 2008.
14. On 5 September 2008, and during the testimony given under oath and pursuant to the Summons (the "Interview"), Mallett made the following representations:
  - a) That since 1 January 2007, he had not traded in securities (including any solicitations or negotiations) with New Brunswick residents;
  - b) That since 1 January 2007, the only arrangement he had entered into with any issuer or promoter of securities traded with New Brunswick residents was with Berrie White Capital Corporation;

- c) That since 1 January 2007, he had received no payments, commissions or other financial benefits from issuers or promoters of securities traded with New Brunswick residents;
  - d) That he was solely employed in the marketing of tax-assisted charitable donation structures and developing a clientele for the exempt securities promoted by Berrie White Capital Corporation;
  - e) That he had not assisted Villabar in marketing limited partnership investments in the previous three or four years; and
  - f) That he had received no monies from Villabar since 1 January 2007.
15. These representations made by Mallett during the Interview, and listed at paragraph 14, above, constitute misrepresentations designed to mislead the Investigator in the Investigation, contrary to section 179(2)(a) of the *Securities Act*, S.N.B. 2004, c. s-5.5 (the "*Securities Act*").
16. During the Interview, Mallett refused to disclose any information or document relating to bank accounts he held. Such refusal was made on the advice of Mallett's counsel, who took the position that such information was not relevant. This claim as to relevancy was premised on Mallett's false denial of any involvement with the sales of securities in New Brunswick.
17. Staff allege that the monies paid to Mallett under the engagement with the Villabar Group were commissions within the meaning of section 2.9(6)(b) of National Instrument 45-106. The \$80,400 paid to Mallett is consistent with sales commissions for exempt securities paid by one or more of the corporate respondents in similar circumstances in other jurisdictions.
18. Staff allege that Mallett misled the Investigator about the payments under the engagement with the Villabar Group because he knew that the payments constituted illegal commissions (pursuant to section 2.9(6)(b) of National Instrument 45-106) or that the payments were otherwise wrongful.
19. On 19 January 2009, the NBSC issued a Consent Order denying Mallett all exemptions under New Brunswick securities law.

#### Misconduct concerning Villabar distributions since December 2004

20. Villabar and related entities (the "Villabar Group") have promoted exempt distributions in New Brunswick since the 1980's. Prior to 22 July 2004, the Villabar Group paid its sales agents a commission of 10%, which was legal at that time.

21. The Villabar Group has made three distributions of securities in New Brunswick since 22 July 2004:
  - a) Villabar Properties (2004) Limited Partnership (the "2004 Partnership"), which was distributed in December 2004 pursuant to the Offering Memorandum exemption under section 2.7 of Emergency Rule 45-501;
  - b) Villabar Properties (2005) Limited Partnership (the "2005 Partnership"), which was distributed in December 2005 pursuant to the Offering Memorandum exemption under section 2.9 of National Instrument 45-106; and
  - c) Brant Park Inn Limited Partnership (the "Brant Park Partnership"), which was distributed on 24 July 2008 pursuant to the Offering Memorandum exemption under section 2.9 of National Instrument 45-106.
22. The 2004 Partnership Offering Memorandum used in New Brunswick failed to state that significant compensation was paid to a company that promoted the offering and acted in furtherance of the trades to New Brunswick investors, such information being required by the form of offering memorandum required pursuant to section 6.3(1) of Emergency Rule 45-501.
23. The 2004 Partnership Offering Memorandum was executed by Medoff and Hoffer on behalf of the issuer, and by Medoff on behalf of Villabar, the promoter.
24. The Report of Exempt Distribution in respect of the 2004 Partnership was not filed until 12 January 2006, contrary to section 6.1 of Emergency Rule 45-501.
25. The Form 45-103F4 filed in respect to the 2004 Partnership distribution required the reporting of any compensation paid in respect of the distribution. Medoff executed the form on behalf of the 2004 Partnership, but failed to report significant compensation paid in respect of the sale of the 2004 Partnership to investors in New Brunswick, contrary to section 179(2)(a) and (b) of the *Securities Act*.
26. Staff allege that the compensation paid in respect of the distribution of the 2004 Partnership constitutes commissions within the meaning of Emergency Rule 45-501. Further, the commissions were paid to entities that were not registered dealers in New Brunswick, contrary to section 2.7(3) of Emergency Rule 45-501.
27. The 2005 Partnership Offering Memorandum used in New Brunswick failed to state that significant compensation was paid, or was to be paid, to

individuals, including Mallett, who promoted the offering and acted in furtherance of the trades to New Brunswick investors, such information being required by the form of offering memorandum required pursuant to section 6.4(1) of National Instrument 45-106.

28. The 2005 Partnership Offering Memorandum was executed by Medoff and Hoffer on behalf of the issuer, and by Medoff on behalf of Villabar, the promoter.
29. The Form 45-106F1 filed in respect to the 2005 Partnership distribution required the reporting of any compensation paid in respect of the distribution. Hoffer executed the form on behalf of the 2005 Partnership, but failed to report significant compensation paid in respect of the sale of the 2005 Partnership to investors in New Brunswick, contrary to section 179(2)(a) and (b) of the *Securities Act*.
30. Staff allege that the compensation paid in respect of the distribution of the 2005 Partnership constitutes commissions within the meaning of National Instrument 45-106. Further, the commissions were paid to entities that were not registered dealers in New Brunswick, contrary to section 2.9(6) of National Instrument 45-106.
31. On 9 January 2006, Staff of the Commission wrote to Medoff requesting written confirmation that no person had been paid, or would be paid, compensation pursuant to the 2005 Partnership distribution. By way of letter dated 13 January 2006, Medoff stated that no commissions or finder's fees had been paid in respect of the 2005 Partnership distribution. This was unresponsive to the question asked, and Staff allege that it constitutes a misrepresentation contrary to section 179(2)(a) and (b) of the *Securities Act*.
32. The Brant Park Partnership Offering Memorandum used in New Brunswick failed to state that significant compensation was paid, or was to be paid, to individuals, including Mallett, who promoted the offering and acted in furtherance of the trades to New Brunswick investors, such information being required by the form of offering memorandum required pursuant to section 6.4(1) of National Instrument 45-106.
33. The Brant Park Partnership Offering Memorandum was executed by Medoff and Hoffer on behalf of the issuer, and by Medoff on behalf of Villabar, the promoter.
34. The Form 45-106F1 filed in respect to the Brant Park Partnership distribution required the reporting of any compensation paid in respect of the distribution. Medoff executed the form on behalf of the Brant Park Partnership, but failed to report significant compensation paid in respect of the sale of the Brant Park Partnership to investors in New Brunswick, contrary to section 179(2)(a) and (b) of the *Securities Act*.

35. Staff allege that the compensation paid in respect of the distribution of the Brant Park Partnership by Villabar and St. Clair constitutes commissions within the meaning of National Instrument 45-106. Further, the commissions were paid to entities that were not registered dealers in New Brunswick, contrary to section 2.9(6) of National Instrument 45-106.

Relief Requested

36. Staff seeks an order pursuant to section 184(1)(c)(ii) of the *Securities Act*, that the Respondents cease trading securities in New Brunswick permanently or for such period as the Commission may determine.
37. Staff seeks an order pursuant to section 184(1)(d) of the *Securities Act*, that any exemptions under New Brunswick securities law do not apply to the Respondents permanently or for such period as the Commission may determine.
38. Staff seeks an order pursuant to section 184(1)(i) of the *Securities Act*, that Medoff and Hoffer be banned from acting as a director or officer of any issuer, registrant or mutual fund manager permanently or for such period as the Commission may determine.
39. Staff seeks an administrative penalty pursuant to section 186(1) of the *Securities Act* against each of the Respondents.
40. Staff seeks investigative and hearing costs pursuant to sections 185(1) and 185(2) of the *Securities Act* against each of the Respondents.

DATED at the City of Saint John this 16<sup>th</sup> day of November, 2010.

Original signed by \_\_\_\_\_

Mark McElman  
Counsel to Staff of the Commission

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