

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No.: 500-06-000859-179

SUPERIOR COURT
(Class Action)

DENIS GAUTHIER, residing at 427 Savard, in
the city of St-Jean-sur-Richelieu, District of
Iberville, Province of Quebec J2W 1Y7

Representative Plaintiff

v.

DAVID BAAZOV, residing at 258 rue Einstein,
in the City of Dollard-des-Ormeaux, District of
Montreal, Province of Quebec H9A 3J4

Defendant

ORIGINATING APPLICATION INSTITUTING A CLASS ACTION
(Articles 583 et seq. CCP and art. 225.4 QSA)

**TO THE HONOURABLE CASE MANAGEMENT JUDGE OF THE SUPERIOR COURT OF
QUEBEC, THE REPRESENTATIVE PLAINTIFF RESPECTFULLY SUBMITS AS FOLLOWS:**

PREAMBLE

1. On August 7, 2020, this Class action was authorized ("**Authorization Judgment**") by the Honourable Justice François P. Duprat against the Defendant on behalf of the members of the class defined below, other than the "Excluded Persons":

All persons and entities who purchased Amaya Inc. securities during the Class Period and held all or some of those securities until after the Corrective Disclosure;

2. Denis Gauthier was ascribed the status of representative of the persons included in the class described above;
3. The issues to be dealt with collectively were ordered to be:
 - i. Were there misrepresentations in the Impugned Documents?
 - ii. Did the Defendant mislead the public or commit a fault?
 - iii. Were the alleged faults and breaches done intentionally?

- iv. Is the Defendant liable to the Class Members in virtue of applicable laws or regulations?
 - v. What are the damages sustained by the Class Members?
4. The conclusions sought by the class action were identified as follows:
- i. **GRANT** this class action on behalf of the Class;
 - ii. **GRANT** the Representative Plaintiffs' action against the Defendant in respect of the rights of action asserted against the Defendant under Title VIII, Chapter II, Division II of the Quebec *Securities Act*, CQLR C V-1.1 ("**QSA**") and article 1457 of the *Civil Code of Quebec* ("**CCQ**");
 - iii. **CONDEMN** the Defendant to pay to the Representative Plaintiffs and the Class compensatory damages for all monetary losses;
 - iv. **ORDER** collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;
 - v. **THE WHOLE** with interest and additional indemnity provided for in the CCQ with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action.

A. DEFINITIONS

5. In addition to the terms that are defined elsewhere herein, the terms herein below have the following meanings:
- a) "**Amaya**" means Amaya Inc., now known as The Stars Group, Inc;
 - b) "**Board of Directors**" means Amaya Inc.'s board of directors;
 - c) "**Class**" and "**Class Members**" are comprised of the following, other than **Excluded Persons**:

All persons and entities who purchased Amaya Inc. securities during the **Class Period** and held all or some of those securities until after the **Corrective Disclosure**;
 - d) "**Class Period**" means the period from February 1, 2016 to November 21, 2016, inclusively;
 - e) "**Corrective Disclosure**" means the Globe & Mail's article entitled "Dubai firm denies backing Amaya deal; files SEC complaint" published on November 22, 2016, communicated herewith as **Exhibit P-1**;
 - f) "**Defendant**" means Mr. David Baazov;
 - g) "**Excluded Persons**" means the Defendant and members of the Defendant's immediate family;

- h) **"First Impugned Document"** means the *Early Warning Report Filed Under National Instrument 62-103*, signed by the Defendant and filed on SEDAR on February 1, 2016 by the Defendant and communicated herewith as **Exhibit P-2**;
- i) **"Impugned Documents"** means collectively the **First and Second Impugned Documents**;
- j) **"MD&A"** means Amaya Inc.'s management's discussion and analysis;
- k) **"Plaintiff"** and **"Representative Plaintiff"** refers to Denis Gauthier;
- l) **"Second Impugned Document"** means the Form 62-103F1 *Required Disclosure under the Early Warning Requirements* signed by the Defendant and filed on **SEDAR** on November 14, 2016 by the Defendant and communicated herewith as **Exhibit P-3**; and
- m) **"SEDAR"** means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;

B. INTRODUCTION

- 6. Amaya provides technology-based products and services in the online gaming industry;
- 7. Its securities are listed on the Toronto Stock Exchange ("**TSX**") and NASDAQ under the respective "TSGI.TO" and "TSG" symbols;
- 8. Amaya was incorporated pursuant to the laws of Quebec and the *Autorité des marchés financiers* ("**AMF**") was its principal securities regulator, the whole as appears from Amaya's SEDAR profile, communicated herewith as **Exhibit P-4**;
- 9. At all relevant times during the Class Period, Amaya's headquarters were located in Quebec;
- 10. Defendant founded Amaya and was Amaya's President, CEO, Chairman of the Board, Secretary and Treasurer from January 1, 2006 to March 29, 2016;
- 11. In 2014, the Defendant unlawfully shared privileged and confidential information about the company's confidential takeover talks in order to initiate a buying frenzy of Amaya's stock and artificially inflate its stock price, thus making the acquisition of Oldford Group Limited, one of the largest online gambling companies, plausible;
- 12. In March 2016, the AMF filed cease trade orders against individuals that had allegedly participated and profited from the insider trading scheme implemented by the Defendant;
- 13. On March 22, 2016, the *Tribunal administratif des marchés financiers* ("**TMF**") (known as the *Bureau de décision et révision* prior to July 18, 2016) rendered a judgment in which it concluded that there existed a systematic *modus operandi* of insider trading led by the Defendant, as appears from a copy of the TMF's decision 2016 QCBDR 32, communicated herewith as **Exhibit P-6**;

14. On March 23, 2016, the AMF announced that it had filed charges against the Defendant, including a charge of influencing or attempting to influence the market price of Amaya's stock by unfair, improper or fraudulent practices as per article 195.2 of the QSA, the whole as appears from the redacted "*Constats d'infractions*" issued by the AMF, communicated herewith as **Exhibit P-7** and the AMF's press release, communicated herewith as **Exhibit P-8**;
15. On March 29, 2016, less than one week after the AMF announced that it had filed charges against the Defendant, the latter took an indefinite paid leave of absence as Amaya's CEO and Chairman, the whole as appears from the news release, communicated herewith as **Exhibit P-9**;
16. During his indefinite leave, the Defendant nonetheless remained a member of Amaya's Board of Directors, the whole as appears from Exhibit P-9;
17. On or about May 16, 2016, Amaya's Board of Directors was advised that the Defendant would not be standing for re-election as a director at the upcoming annual shareholders meeting, the whole as appears from a news release issued on May 16, 2016, communicated herewith as **Exhibit P-10**;
18. The Defendant's resignation from all positions at Amaya was effective on August 11, 2016, the whole as appears from a Material Change Report, communicated as **Exhibit P-11**;
19. The Plaintiff's claim is based on the Defendant's misrepresentations concerning his February 1, 2016 and November 14, 2016 statements to the market regarding his ability and desire to acquire all of Amaya's equity in a going-private transaction, which contained misrepresentations;
20. The Defendant's conduct also gave rise to proceedings filed in Dubai by KBC Aldini Capital Limited ("**KBC**") further to the Defendant's unauthorized use of KBC's name and signature, the whole as appears from the *Amended Particulars of Claim*, communicated herewith as **Exhibit P-31**;
21. According to KBC, the Defendant acted maliciously or with recklessness, knowing that the representations made in his filings were untrue misrepresentations because he did not have the financial ability to acquire all of Amaya's equity nor did he have the financial support from KBC, as appears from paragraphs 65 and 72 of Exhibit P-31;
22. In addition to the present class action, the Defendant was and/or is also the target of:
 - i. 23 charges filed by the AMF in relation to the Oldford acquisition;¹
 - ii. At least two (2) additional AMF investigations in relation to Amaya's acquisitions of other rival companies as well as Baazov's violations of Securities Legislation;²

¹ *Autorité des marchés financiers c. David Baazov et al.*, 500-61-435556-163. Justice Salvatore Mascia ordered the stay of the penal charges laid by the AMF on June 6, 2018. These charges were stayed based on a Jordan Motion and did not speak to the Defendant's culpability.

² Enquêtes "Bronze" et "Cordon".

- iii. A class action further to misrepresentations made by the Defendant in filings published by Amaya;³
- iv. Two (2) cease trade orders granted by the Tribunal administratif des marchés financiers;⁴
- v. A class action filed in the USA;⁵
- vi. An investigation by the FBI which led to criminal charges against G. Steven Pigeon for having, with Baazov's help, orchestrated an illegal donation to the re-election campaign of a public official of the USA; ⁶
- vii. An investigation led by FINRA;
- viii. Proceedings against Amaya instituted in Florida for breach of a work agreement, promissory estoppel and unjust enrichment;⁷
- ix. Proceedings against Baazov instituted in Dubai by KBC;⁸ and
- x. Proceedings against Amaya Gaming Group Inc. (Kenya) instituted in Kenya further to Amaya's failure to pay monies owed to the Lion's Heart Self Help Group.⁹ The plaintiffs also allege that the money deposited into Amaya Gaming Group Inc. (Kenya)'s accounts at NIC Bank Limited were proceeds from illegal trading that were part of a "well-calculated money laundering scheme";¹⁰

C. FACTS

- 23. At all material times, the Defendant was Amaya's second largest shareholder, the whole as appears from an excerpt from the *Registre des Entreprises du Québec*, communicated herewith as **Exhibit P-12**;
- 24. The Defendant is well-aware of security trading practices and regulations, internal controls over financial reporting ("ICFR") and disclosure controls and procedures ("DC&P") as well as the role that these important procedures play in providing the

³ *Derome v. Amaya Inc. et al.*, 500-06-00785-168.

⁴ *Autorité des marchés financiers c. Baazov*, 2016 QCBDR 32 et *Autorité des marchés financiers c. Baazov*, 2017 QCTMF 103. The TMF lifted the freeze and cease trade orders that had previously been made against David Baazov and others.

⁵ *Carmack v. Amaya Inc. et al.*, No. 1:16-cv-01884-JHR-JS.

⁶ *United States of America v. G. Steven Pigeon*, Case No. 17-mj-5188. An *Order for Dismissal* of the criminal complaint filed against G. Steven Pigeon was rendered by the United States Attorney for the Western District of New York on October 6, 2017, in connection with the allegations found at paragraph 22 vi).

⁷ *Van Kessel v. The Stars Group Inc.*, No. CACE 18-003453 (05). This action has been settled.

⁸ *KBC Aldini Capital Limited v. David Baazov et al.*, Claim No.: CFI-002-2017. This action was struck because the Plaintiff could not post security for costs.

⁹ *Nyagudi et al. v. NIC Bank Limited et al.*, Civil case no. 419 of 2017.

¹⁰ The whole as appears from paras. 82-86 and 91 of the *Plaint* filed by Kennedy Odhiambo Nyagudi and the Lion's Heart Self Help Group, communicated herewith as **Exhibit P-32**.

investing public with confidence in a company's financial reporting and in the integrity of the financial markets;

25. As a result, since 2015, Amaya's MD&As contain the following statements regarding DC&P:

The CEO and CFO have designed DC&P, or have caused them to be designed under their supervision, in order to provide reasonable assurance that:

- material information relating to the Corporation is made known to them by others, particularly during the period in which the annual filings are being prepared; and
- information required to be disclosed in the annual filings, interim filings or other reports filed or submitted under securities legislation is recorded, processed, summarized and reported within the time periods specified in the securities legislation.

The CEO and CFO have evaluated, or caused to be evaluated under their supervision, the effectiveness of Amaya's DC&P at the financial year end December 31. Based on that evaluation, the CEO and CFO concluded that DC&P are effective.

the whole as appears from pages 31-32 of the MD&A dated March 30, 2015 and page 38 of the MD&A dated March 14, 2016, communicated herewith as **Exhibit P-13** *en liasse*;

26. Immediately prior to the Class Period, the Defendant tipped off certain third-parties about non-public material facts about Amaya's business operations and financing;
27. These third-parties communicated with each other and shared information about Amaya's performance. As such:
- i. On January 19, 2016, Earl Levett ("**Earl**") purchased 500 AYA shares in his Dundee account at \$15.32 per share for a total of \$7,660, the whole as appears from Exhibit D-170 filed in support of the AMF's *Demande introductive d'instance ex parte ré-amendée*, communicated herewith as **Exhibit P-14**;
 - ii. On January 20, 2016, Isam Mansour ("**Isam**") purchased 10,000 AYA shares in his BMO account at \$14.25 per share for a total of \$142,850, the whole as appears from page 3 of Exhibit D-171 filed in support of the AMF's *Demande introductive d'instance ex parte ré-amendée*, communicated herewith as **Exhibit P-15**;
 - iii. On January 21, 2016, Isam purchased an additional 5150 AYA shares in his Dundee account at an average price of \$14.79 per share for a total of \$76,215.51, the whole as appears from pp.1-2 of Exhibit D-171 filed in support of the AMF's *Demande introductive d'instance ex parte ré-amendée*, Exhibit P-15;

- iv. On that same day, Allie Mansour ("**Allie**"), Isam's brother, purchased 500 AYA shares in his TD account at \$14.81 per share for a total of \$7,405, the whole as appears from Exhibit D-172 filed in support of the AMF's *Demande introductive d'instance ex parte ré-amendée*, communicated herewith as **Exhibit P-16**;
 - v. On January 27, 2016, Allie purchased an additional 500 AYA shares in his TD account at \$14.33 per share for a total of \$7,165, the whole as appears from Exhibit D-172 filed in support of the AMF's *Demande introductive d'instance ex parte ré-amendée*, Exhibit P-16;
28. All of the individuals referred to above are subject to the TMF's cease trade order;
29. Of note are the TMF's conclusions regarding the Defendant, further to his challenge of the TMF's *ex parte* decision to issue cease trading orders:

[467] Pour cet épisode, le Tribunal a particulièrement retenu de la preuve qui lui a été présentée ce qui suit.

[468] Les 19, 20, 21 et 27 janvier 2016, les intimés Isam Mansour, Allie Mansour et Earl Levett ont fait l'acquisition d'actions d'Amaya.

[469] Or, ces transactions ont précédé de peu, le communiqué de presse du 1^{er} février 2016 du mis en cause David Baazov dans lequel il annonçait publiquement son intention, et celle d'un groupe d'investisseurs avec lequel il serait en discussion, de privatiser Amaya en offrant d'acquérir toutes les actions de cette société à un prix d'environ 21 \$ par action, ce qui représenterait une prime de l'ordre de 40% par rapport au cours de clôture de ce titre lors de la séance précédente de transactions.

[470] Le Tribunal constate que les intimés Isam Mansour, Allie Mansour et Earl Levett ont, une fois de plus, rapidement fait des profits théoriques sur leur investissement en achetant des titres d'une société peu de temps avant une annonce publique importante susceptible d'accroître significativement la valeur des actions de cette entreprise.

[471] Dans cet épisode de transactions, il s'agit d'une annonce publique faite par le mis en cause lui-même, David Baazov.

[472] Cette nouvelle faisait notamment état de son intention d'acheter éventuellement toutes les actions d'Amaya qu'il ne détenait pas déjà à titre d'actionnaire important de cet émetteur assujetti.

[473] Au moment de l'audience, les profits réalisés par les intimés susmentionnés étaient encore théoriques, car ils n'avaient pas encore vendu leurs actions d'Amaya.

[474] Le Tribunal souligne que l'enquête de l'Autorité se poursuit. L'analyse de la preuve présentée au Tribunal concernant cet épisode de transactions démontre toutefois, de l'avis du Tribunal, que le réseau

composé des intimés et du mis en cause David Baazov serait toujours actif au début de 2016.

[475] De l'avis du Tribunal, la preuve administrée devant lui et le modus operandi constaté dans les épisodes précédents suggèrent les manquements apparents suivants à la Loi sur les valeurs mobilières, à savoir :

- *Les intimés Isam Mansour, Allie Mansour et Earl Levett en transigeant sur les titres d'Amaya alors qu'ils disposaient d'information privilégiée, en contravention aux articles 187 et 189 de la Loi sur les valeurs mobilières.*

the whole as appears from *Autorité des marchés financiers c. Baazov*, 2017 QCTMF 103 and exhibits D-20, D-49, D-73, D-151, D-156, D-173, communicated herewith as **Exhibits P-33A, P-33B, P-33C, P-33D, P-33E, P-33F and P-33G**;

30. On January 29, 2016, AYA closed at CDN \$14.99 on the TSX and at US \$10.56 on the NASDAQ, the whole as appears from Yahoo! Finance's Historical Data from January 28, 2016 to February 3, 2016, communicated herewith as **Exhibit P-17 en liasse**;
31. On February 1, 2016, the Defendant filed the First Impugned Document on SEDAR, pursuant to his obligation to file an early warning report as established by *Regulation 62-103 Respecting The Early Warning System and Related Take-Over Bid and Insider Reporting Issues ("Regulation 62-103")*, in which he announced his intention to make an all-cash proposal to acquire Amaya at a price of CDN \$21 per share ("**Acquisition Offer**") which represented a 40% premium to the previous day's closing price, as appears from Exhibit P-2;
32. At that time, the Defendant owned approximately 18.6% of Amaya's common shares ("**Common Shares**"), as appears from Exhibit P-2;

D. THE MISREPRESENTATIONS

33. On February 1, 2016, the Defendant released the First Impugned Document to commence a market manipulation scheme to drive up the price of Amaya's shares in order to increase the value of the Defendant's substantial stake in Amaya through a phantom offer;
34. The filing of the First Impugned Document automatically triggered Amaya's Board of Directors, excluding the Defendant, to promptly review the offer and convene a special committee of independent directors ("**Special Committee**");
35. The Defendant intentionally released the First Impugned Document knowing that it contained a misrepresentation because he did not have the requisite financing to make the Acquisition Offer and never intended to go through with the purported transaction;
36. On that same day, following the publication of the First Impugned Document, Amaya's share price increased 16.7% on the TSX to close at CDN \$18 on a high trading volume of 3,430,600 and increased 18.33% on the NASDAQ to close at US \$12.93 on a high trading volume of 2,026,200, as appears from Exhibit P-17 en liasse;

37. This market manipulation scheme materially increased Amaya's share price and thereby increased the value of the Defendant's holdings in Amaya by over \$73 million;
38. Although the Special Committee had previously asked the Defendant to confirm the terms of his proposal, by March 2, 2016, Amaya had not yet received a formal acquisition offer from the Defendant, the whole as appears from the news release communicated herewith as **Exhibit P-18**;
39. On October 18, 2016, Amaya published a news release stating that although the Defendant had still not sent a formal offer to the Special Committee, the Defendant continued to express the financial ability and interest in purchasing all of Amaya's outstanding stock, the whole as appears from the news release communicated herewith as **Exhibit P-19**;
40. On November 11, 2016, AYA closed at CDN \$18.34 on the TSX on a trading volume of 171,900 and at US \$13.60 on the NASDAQ on a trading volume of 112,300, the whole as appears from Yahoo! Finance's Historical Data from November 11, 2016 to November 23, 2016, communicated herewith as **Exhibit P-20 en liasse**;
41. On November 14, 2016, the Defendant filed the Second Impugned Document on SEDAR in which he purported to make a non-binding, all-cash offer to acquire 100% of Amaya's Common Shares, on behalf of himself and others identified as the Equity Financing Sources ("Acquisition Proposal"), the whole as appears from a news release dated November 14, 2016 communicated herewith as **Exhibit P-21**;
42. The Defendant intentionally released the Second Impugned Document knowing that it contained a misrepresentation because he did not have the requisite financing to make the Acquisition Offer and never intended to go through with the purported transaction;
43. Amaya confirmed its receipt of the Acquisition Proposal that same day;
44. The Second Impugned Document particularized the following:
 - i. Updated the information contained in the First Impugned Document;
 - ii. The Defendant would offer to purchase the outstanding, which he and his alleged syndicate did not already own, AYA shares at CDN \$24 each (i.e., a significant premium above the then trading price);
 - iii. The Defendant is deemed to be acting jointly or in concert with Head and Shoulders Global Investment - HS Special Event Segregated Portfolio, Goldenway Capital SPC - Special Event SP, Ferdyne Advisory Inc. and KBC (collectively, the "Equity Financing Sources");
 - iv. The Defendant entered into binding equity commitment letters with each of the Equity Financing Sources for comprised aggregate commitments of US \$3.65 billion which represents 100% of the funds required to complete the proposed transaction;

- v. Each Equity Financing Source has committed to contribute capital to a "to-be-formed" entity led by the Defendant for the purpose of acquiring Amaya ("BidCo");
- vi. BidCo is prepared to provide a US \$200 million deposit into escrow upon execution of a definitive agreement; and
- vii. In the event that Amaya's US \$400 million deferred payment obligations to the previous owners of Oldford becomes due prior to the closing of the proposed transaction, BidCo will cause the deposit to be released from escrow and converted into a one-year structurally-subordinated debt obligation to fund the deferred payment and to be convertible into equity following the closing of the proposed transaction;

as appears from Exhibit P-3;

- 45. On November 14, 2016, subsequent to the release of the Second Impugned Document, Amaya's share price increased by CDN \$2.64 on the TSX to close at CDN \$20.98, on a high trading volume of 2,807,700, whereas it increased by US \$1.90 on the NASDAQ to close at US \$15.50, on a high trading volume of 997,900, as appears from Exhibit P-20 *en l'asse*. This represents an increase of approximately 12% on both the TSX and NASDAQ;
- 46. The Defendant signed the Second Impugned Document and certified that all of the information it contained was "true and complete in every respect", as appears from Exhibit P-3;
- 47. At that time, the Defendant owned 17.2% of Amaya's Common Shares, as appears from Exhibit P-3;
- 48. At the time the Acquisition Proposal was made, the Defendant neither had the intention or the financing to complete the transaction;
- 49. When the Defendant published the Second Impugned Document, he was already the target of:
 - i. 23 charges filed by the AMF in relation to the Oldford acquisition;
 - ii. Two (2) parallel AMF investigations;
 - iii. An investigation led by FINRA;
 - iv. A cease trade order granted by the *Tribunal administratif des marchés financiers*; and
 - v. A class action further to misrepresentations in documents published by Amaya;
- 50. Is it very dubious that in light of these allegations, a credible financial institution would agree to enter into a transaction of this magnitude with the Defendant;

51. The filing of the Second Impugned Document and the Acquisition Proposal were intentional steps taken by the Defendant in furtherance of the scheme noted above to raise Amaya's share price for the benefit of the Defendant and his associates;
52. On November 14, 2016, subsequent to the release of the Second Impugned Document, Amaya's share price increased by CDN \$2.64 on the TSX to close at CDN \$20.98, on a high trading volume of 2,807,700, whereas it increased by US \$1.90 on the NASDAQ to close at US \$15.50, on a high trading volume of 997,900, as appears from Exhibit P-20 *en liasse*. This represents an increase of approximately 12% on both the TSX and NASDAQ;
53. That same day, *La Presse* published an article which informed its readers of the Defendant's intention to purchase all of Amaya's shares, the whole as appears from the article communicated herewith as **Exhibit P-38**. More specifically, the *La Presse* article informed its readers that Baazov entered into binding equity commitment letters with Head and Shoulders Financial Group, Goldenway Capital, KBC Aldini Capital and Ferdyne Advisory Inc., as appears from Exhibit P-38;
54. Upon reading the *La Presse* article, the Plaintiff purchased 250 AYA shares at CDN \$21.41 per share, the whole as appears from an email entitled *Notification - Exécution d'une transaction (Achat)*, communicated herewith as **Exhibit P-22**;
55. On November 21, 2016, Amaya's share price closed at CDN \$19.86 on the TSX and at US \$14.85 on the NASDAQ, as appears from Exhibit P-20 *en liasse*;
56. On November 22, 2016, the Corrective Disclosure was released and revealed that one of the Defendant's alleged Equity Financing Sources, KBC, had "«no involvement» whatsoever in the privatization offer" for Amaya, as appears from Exhibit P-1 and from KBC's news release dated November 22, 2016, communicated herewith as **Exhibit P-23**;
57. On that same day, AYA's value dropped approximately 6.4% to close at CDN \$18.67 on the TSX on a trading volume of 1,813,700 and dropped approximately 7.2% to close at US \$13.85 on the NASDAQ on a trading volume of 1,011,700 as appears from Exhibit P-20 *en liasse*;
58. On November 23, 2016 the Defendant confirmed that:
 - i. The equity commitment letter purported to be delivered to the Defendant on behalf of KBC was delivered without KBC's knowledge or consent; and,
 - ii. KBC had not committed to providing financing for the proposed acquisition of Amaya;the whole as appears from the news release dated November 23, 2016, communicated herewith as **Exhibit P-24**;
59. By failing to disclose these material facts, the Defendant altered the total mix of information available to a reasonable investor when making his decision to purchase AYA shares. Had these material facts been disclosed, the Plaintiff and Class Members

would not have purchased AYA shares or would not have purchased them at artificially-high prices;

60. That same day, the Globe and Mail published an article entitled "Investor denies backing Amaya deal; 'I don't know who Amaya is,' says CEO of Dubai firm that was named as one of the four funds behind the proposed takeover bid", the whole as appears from a Globe and Mail article, communicated herewith as **Exhibit P-25**;
61. Upon learning of the Defendant's false statements in relation to the Acquisition Proposal, the Plaintiff sold his shares in Amaya at a loss, thus suffering monetary damages, the whole as appears from emails entitled *Notification - Exécution d'une transaction (Vente)*, communicated *en liasse* herewith as **Exhibit P-26**;
62. On November 25, 2016, the Defendant published a new Form 62-103F1 ("**New Early Warning Form**") as required by *Regulation 62-103*, the whole as appears from the Form 62-103F1, communicated herewith as **Exhibit P-27**;
63. The New Early Warning Form identified Global Investment - HS Special Event Segregated Portfolio and Goldenway Capital SPC - Special Event SP as the only financiers for the Acquisition Proposal, as appears from Exhibit P-27;
64. The New Early Warning Form omitted KBC and Ferdyne Advisory Inc. ("**Ferdyne**") as sources of financing;
65. No explanation was given with regards to the removal of Ferdyne;
66. Ferdyne was incorporated under the laws of the Virgin Islands under number 1685386 and was stricken from BVI's Register of Companies as of May 1st, 2013 for non-payment of annual fees in accordance with the BVI *Business Companies Act*, 2004, the whole as appears from BVI's Official Gazette, communicated herewith as **Exhibit P-34**;
67. In June 2017, KBC filed a claim for damages against the Defendant before the Dubai International Financial Centre Courts for the unauthorized use of its name and unauthorized filing of forged documents with the SEC in relation to Acquisition Proposal, as appears from Exhibit P-31;
68. According to KBC:
 - i. It carries on business as a multi-line investment institution, including as an asset manager and fund manager for its clients;
 - ii. It had no dealings with the Defendant and was unaware of the Acquisition Proposal or of its preparation or any purported financing thereof;
 - iii. It did not sign any documents relating to the Acquisition Proposal, further adding that the signature on the equity commitment letter allegedly signed by KBC's principal was a forgery and that it did not originate from KBC;
 - iv. The Defendant acted maliciously or with recklessness knowing that the representations made in his early warning report were untrue; and

- v. As a result of the wrongful use of its name in support of a company in the gaming and casino industry, KBC's business was adversely affected since the majority of its clients are Muslim and they entrust their funds to KBC on the basis that it will not be associated with a company and/or activity that is forbidden by Islamic law, namely gaming and casinos,

as appears from paragraphs 1, 5, 7-8, 11, 43, 49 and 72 of Exhibit P-31;

- 69. On two (2) occasions, Amaya's representatives contacted KBC's principal in an attempt to persuade him to: (i) withdraw the statements he had made in the media to the effect that KBC had no involvement in the Acquisition Proposal; and (ii) withdraw the complaint filed before the Ontario Stock Exchange, as appears from paragraphs 50 and 54 of Exhibit P-31;
- 70. Amaya's representatives also attempted to obtain information surreptitiously from KBC and refused to provide the latter with a copy of the equity commitment letter that it had allegedly signed, as appears from paragraph 93 of Exhibit P-31;
- 71. KBC's president, Mangilal Kalani, signed an oath that the foregoing allegations are true, as appears from page 24 of Exhibit P-31;
- 72. The Defendant's market manipulation scheme included the intent to mislead investors into believing that he had secured financing from KBC and Ferdyne which were specifically identified in the Second Impugned Document as being part of the Equity Financing Sources;
- 73. The phantom offer set forth in the First and Second Impugned Documents were part of a scheme to increase the value of the Defendant's personal wealth resulting from his holdings of Amaya's Common Shares increasing in value;
- 74. The Defendant never acquired all of Amaya's Common Shares further to the phantom offer. Instead, on March 7, 2017, the Defendant sold 7,000,000 Common Shares of Amaya at a price of \$19.00 per share for a total amount of \$133,000,000, the whole as appears from the Form 62-103F1, communicated herewith as **Exhibit P-28**;
- 75. Further to this transaction, the Defendant disposed of 28.4% of his owned Common Shares, the whole as appears from the SEDI's insider transaction detail, communicated herewith as **Exhibit P-35**;
- 76. On March 29, 2017, the Defendant sold 2,700,000 Common Shares at \$22.00 per share for a total of \$59,400,000, as appears from Exhibit P-35;
- 77. On March 30, 2017, the Defendant sold an additional 9,300,000 Common Shares at \$22.40 per share for a total of \$208,320,000, as appears from Exhibit P-35;
- 78. That same day, the Defendant informed investors of both his March 29th and 30th transactions, the whole as appears from the Form 62-103F1, communicated herewith as **Exhibit P-29**;
- 79. Further to these transactions, the Defendant disposed of 67.9% of his owned Common Shares, as appears from Exhibit P-35;

E. THE RIGHTS OF ACTION

Statutory Right of Action for Misrepresentations in a Secondary Market Claim

80. When the Defendant filed the First Impugned Document on February 1, 2016, he was a member of Amaya's board of directors and, therefore, subject to the QSA;
81. Article 225.8(1) of the QSA states that "a person that acquires or disposes of an issuer's security during the period between when the issuer or a mandatary or other representative of the issuer released a document containing a misrepresentation and the time when the misrepresentation was publicly corrected may bring an action against [...] the issuer, each director of the issuer at the time the document was released and each officer of the issuer who authorized, permitted or acquiesced to the release of the document";
82. The Defendant's misrepresentations in the First Impugned Document fall within the scope of article 225.8(1) of the QSA since at the time when these misrepresentations were made, the Defendant was a director of Amaya;
83. The filing of the First Impugned Document therefore gives rise to a secondary market claim under article 225.8(1) of the QSA;
84. When the Defendant filed the Second Impugned Document on November 14, 2016, he was no longer a member of Amaya's board of directors since he resigned from that post effective August 11, 2016. The Defendant did however own more than 10% of Amaya's issued and outstanding Common Shares, as a result of which, he qualified as an insider and in turn, as an influential person under the QSA;
85. Under article 225.3 of the QSA, an influential person includes an insider who is not a director or an officer of the issuer;
86. Article 89 of the QSA defines an insider as "a person that exercises control over more than 10% of the voting rights attached to all outstanding securities of an issuer". Since as at the date of filing of the Second Impugned Document the Defendant exercised control over more than 10% of Amaya's issued and outstanding Common Shares and was no longer a director or officer of Amaya, he was considered an insider and as such, an influential person under article 225.3 of the QSA;
87. Article 225.10(4) of the QSA states that "a person that acquires or disposes of an issuer's security during the period between when an influential person [...] released a document [...] relating to the issuer containing a misrepresentation and the time when the misrepresentation was publicly corrected may bring an action against [...] the influential person [...]";
88. The Defendant's misrepresentations made in the Second Impugned Document fall within article 225.10(4) of the QSA since, at the time when these misrepresentations were made, the Defendant was an influential person;
89. The filing of the Second Impugned Document therefore gives rise to a secondary market claim under article 225.10(4) of the QSA;

90. The Impugned Documents prepared and signed by the Defendant contained misrepresentations relating to the issuer, Amaya, which misled investors and led them to believe that the Defendant intended to present viable acquisition offers;
91. As a result of those misrepresentations, made in furtherance of the Defendant's scheme to increase the price of Amaya's shares, the Plaintiff asserts a claim in virtue of article 225.8(1) of the QSA and a claim in virtue of article 225.10(4) of the QSA against the Defendant on behalf of all Class Members;
92. The Defendant knew that at the time he released the Impugned Documents they contained misrepresentations;
93. The monetary damages suffered by the Plaintiff and Class Members are a direct result of the Defendant's intentional market manipulation scheme to artificially inflate Amaya's share price by releasing documents containing misrepresentations about a phantom offer to acquire all of Amaya's shares, i.e. a going private transaction;

Offences Under Title VII, Chapter II of the QSA

94. Under article 195(2) of the QSA, it is an offence to influence or attempt to influence the market price of securities by means of unfair, improper or fraudulent practices;
95. As particularized herein, the Defendant published the Impugned Documents which contained misrepresentations as part of an intentional scheme to increase the value of the Defendant's stake in Amaya;
96. The Defendant committed a fault under article 195(2) of the QSA, thus breaching his obligations towards the Plaintiff and Class Members;
97. Additionally, article 197(5) of the QSA states that a person is "guilty of an offence who in any manner not specified in article 196 makes a misrepresentation in any document forwarded or record kept by any person pursuant to [the QSA]";
98. The article further defines a "misrepresentation" as "any misleading information or a fact that is likely to affect the decision of a reasonable investor as well as any pure and simple omission of such a fact";
99. Pursuant to article 112 of the QSA, a person making a take-over bid shall conduct the bid in accordance with the conditions determined by regulation;
100. *Regulation 62-103* defines "early warning requirements" as the requirements set out in section 5.2 of *Regulation 62-104 Respecting Take-Over Bids and Issuer Bids* ("*Regulation 62-104*") which states that:
 - (1) An acquiror who acquires beneficial ownership of, or control or direction over, voting or equity securities of any class of a reporting issuer, or securities convertible into voting or equity securities of any class of a reporting issuer, that, together with the acquiror's securities of that class, constitute 10% or more of the outstanding securities of that class, must

(a) promptly, and, in any event, no later than the opening of trading on the business day following the acquisition, issue and file a news release containing the information required by section 3.1 of Regulation 62-103 respecting The Early Warning System and Related Take-Over Bid and Insider Reporting Issues (chapter V-1.1, r. 34), and

(b) promptly, and, in any event, no later than 2 business days from the date of the acquisition, file a report containing the information required by section 3.1 of Regulation 62-103 respecting The Early Warning System and Related Take-Over Bid and Insider Reporting Issues.

101. Section 3.1 of *Regulation 62-103* states that the news release and report that must be issued and filed under the early warning requirement must contain the information required by Form 62-103F1, namely, the identity of the acquiror and all joint actors, a description of the agreements, arrangements, commitments or understandings between the acquiror and the joint actors and a certification that the information in the form is true and complete in every respect;
102. The Impugned Documents are governed by article 197(5) of the QSA since the Defendant was required to file them pursuant to *Regulations 62-103* and *62-104* as well as article 112 of the QSA;
103. By filing the Impugned Documents which the Defendant knew to have contained misrepresentations, he committed a fault under article 197(5) of the QSA which caused the Plaintiff and Class Members damages;
104. At all relevant times during the Class Period, Amaya's principal establishment was located in Quebec and it carries on business in Quebec, as appears from Exhibit P-10;
105. At all relevant times during the Class Period, Amaya was a reporting issuer in Quebec under article 68 QSA;
106. At all relevant times during the Class Period, the Defendant was domiciled in Quebec, his actions related to a corporation located in Quebec and his breaches of applicable laws and regulations were committed in Quebec;
107. The Plaintiff purchased AYA shares as a direct result of his awareness of the Acquisition Proposal and his reliance and belief that the Defendant presented the Acquisition Proposal in good faith and that the information contained therein was truthful and accurate;

Civil liability

108. The Plaintiff asserts a civil right of action under article 1457 of the CCQ on behalf of all Class Members against the Defendant for breach of his general duty of diligence owed to the Class Members by publishing and disseminating false and misleading information in the Impugned Documents;

109. By knowingly authorizing, permitting and acquiescing to the publication and dissemination of false and misleading information, the Defendant did not fulfill the legal obligations warranted by his status of an "acquiror" in the course of a take-over bid pursuant to *Regulation 62-103* and *Regulation 62-104*;
110. The Defendant signed the Second Impugned Document and certified that all of the information it contained was "true and complete in every respect";
111. The Defendant deliberately, recklessly and negligently misled investors and the general public causing the Class Members to suffer damages;
112. The Plaintiff purchased his shares in Amaya after being informed of the Defendant's Acquisition Proposal, believing that said proposal was presented in good faith and that the information contained therein was true;
113. Due to the Defendant's misrepresentations, the Plaintiff and Class Members purchased AYA shares at artificially-inflated prices;
114. The Plaintiff held his AYA shares until after the Corrective Disclosure was published, therefore suffering an economic injury following the decrease in value of AYA as a direct, immediate and foreseeable result of the Defendant's misrepresentations;
115. The Plaintiff would not have purchased AYA shares had he been aware that the Acquisition Proposal and Impugned Documents contained the misrepresentations particularized herein;
116. As particularized herein, the Defendant's fault, negligence, recklessness and breaches of his obligations under applicable securities legislation caused significant monetary damages to the Plaintiff and the Class Members that he seeks to represent;
117. Following the orchestration and implementation of his scheme to increase the value of Amaya's securities, the Defendant disposed of 19,000,000 AYA shares for a total of \$400,720,000;
118. As part of his scheme to manipulate the price of Amaya's securities, the Defendant released Impugned Documents which contained misrepresentations of material facts;
119. In light of these misrepresentations, at all relevant times during the Class Period, the Plaintiff and Class Members purchased AYA shares at artificially-increased prices. All of these transactions furthered the Defendant's market manipulation scheme by ultimately increasing the value of Amaya's securities;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT this class action on behalf of the Class;

GRANT the Representative Plaintiffs' action against the Defendant in respect of the rights of action asserted against the Defendant under Title VIII, Chapter II, Division II of the QSA and article 1457 of the CCQ;

CONDEMN the Defendant to pay to the Representative Plaintiffs and the Class compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the CCQ and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action.

MONTREAL, this 30th day of November, 2020

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.

Attorneys for the Representative Plaintiff

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Our File: 10203-001

SUPERIOR COURT
(Class Action)
Province of Quebec
District of Montreal
N°: 500-06-000859-179

DENIS GAUTHIER, residing at 427 Savard, in the city of
St-Jean-sur-Richelieu, District of Iberville, Province of
Quebec J2W 1Y7

Representative Plaintiff

v.

DAVID BAAZOV, residing at 258 rue Einstein, in the
City of Dollard-des-Ormeaux, District of Montreal,
Province of Quebec H9A 3J4

Defendant

**ORIGINATING APPLICATION INSTITUTING
A CLASS ACTION**

FAGUY & Co.

BARRISTERS & SOLICITORS INC.

Me Shawn K. Faguy
sfaguy@faguyco.com

Our file : 10203-001

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