



March 1, 2021

The Secretary
Ontario Securities Commission
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Me Philippe Lebel
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Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Dear Secretary and Me Lebel,

Re: CSA Consultation Paper 25-403 - Activist Short Selling

We commend the Canadian Securities Administrators (CSA) for addressing this issue and for their diligence in undertaking the extensive research and analysis presented in the Consultation Paper.

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Activist short sellers, who have no relationship with the company, have the ability to issue a report and disseminate information that could have a material impact on a company's reputation, its valuation and its shareholder's assets without any regulatory oversight, detailed disclosure requirements or recourse. On behalf of Badger Daylighting Ltd. (Badger or Company), a TSX-listed issuer, we support the recommendations noted below as included in the submission from the Canadian Investor Relations Institute (CIRI) dated February 25, 2021 responding to the above referenced CSA Consultation Paper.

Recommendations

We support the CIRI recommendation to the CSA suggesting the introduction of the following regulatory regime:

- that requires the activist short seller to provide their report to the issuer in advance of publishing, to ensure factual accuracy;
- that requires all activist short sellers to disclose their opening, changes in and closing positions as well as their identity and that such disclosure be made daily;
- that bans the practice that allows shares to be sold short without first borrowing the security, in line with the Capital Markets Modernization Taskforce recommendations;
- that implements a 10-day minimum holding period that would apply to any short seller who opens a short position and disseminates market-moving information; and
- that includes recourse for activist short sellers that disclose inaccurate or misleading information.

Badger's Experience with Activist Short Sellers

In May 2017, Badger became the target of a 'short and distort' campaign by California-based activist investor Marc Cohodes, who was also targeting other Canadian, TSX-listed companies at that time. Mr. Cohodes disseminated information on a website, on social and other media and at an investment conference that was misleading and damaging to Badger. On May 12, 2017, the day that Mr. Cohodes announced his 'short and distort' campaign, Badger's shares fell 14 percent with nearly five million shares trading that day, representing nearly 50 times the average daily trading volume and about 13 percent of the company's outstanding share float. In the following week, Badger shares were down by roughly 28 percent.

Over the following weeks and months, Badger incurred significant expense and management time responding to the 'short and distort' campaign, as the Company and investors were impacted by the dissemination of this information.

In May 2018, Badger received written confirmation from the ASC that it had concluded an investigation into allegations by short sellers, writing, "Staff of the ASC is closing its investigation into allegations by short sellers of accounting and disclosure related breaches of Alberta securities laws by Badger Daylighting", and "Pursuant to Section 45 of the Alberta Securities Act, the Executive Director of the ASC has authorized Badger to divulge that an investigation was conducted and concluded with no enforcement action taken".

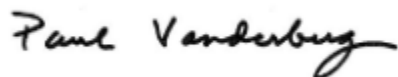
On May 2, 2018, Badger issued a press release related to receipt of the ASC written confirmation, even though the Company's policy is not to comment on interactions with regulators. It believed that the 'short and distort' campaign had impacted the capital market, investors and the Company for the better part of a year, and that the extraordinary circumstances around the matter warranted additional disclosure to shareholders.

On August 9, 2018, the ASC took the step of issuing a Notice of Application against Mr. Cohodes, seeking an interim order that Mr. Cohodes cease trading in securities of Badger and that he be prohibited from disseminating to the public any statements relating to Badger that he knows or reasonably ought to know are misleading or untrue. In the Notice, ASC Staff alleged that there was evidence that Cohodes made misrepresentations and that he engaged in an act, practice or course of conduct relating to the securities of Badger that he knew or ought reasonably to have known would result in or contribute to an artificial price for those securities. On October 10, 2018, the ASC Panel concluded there was not sufficient evidence to justify seeking an interim injunction prior to holding a full hearing on the ASC Staff's claim that Mr. Cohodes violated Sections 92 and 93 of the Securities Act.

Market theory suggests that the capital market efficiently prices the value of a company's security based on all available information on that company. The efficiency of the capital market could be exploited if unsubstantiated, misleading and factually incorrect information is purposely brought-forward concerning a company. In Badger's case, the Company believes that Mr. Cohodes' unsubstantiated allegations and factually inaccurate information resulted in financial harm to individual and institutional investors and to the Company. Additionally, Badger's management spent significant time and considerable resources to correct the capital market's understanding about Mr. Cohodes' unsubstantiated and factually incorrect information.

As a publicly listed issuer in Canada and as a company that was a target of an ultimately unsuccessful 'short and distort' campaign, we support and encourage a regulatory regime including disclosure requirements around short activists, as outlined above. The adoption of these recommendations would improve the efficiency and transparency of the Canadian capital market.

Sincerely,



Paul Vanderberg
President and CEO

Sincerely,



Glen Roane
Chair of the Board