ALBERTA SECURITIES COMMISSION

NOTICE OF HEARING

Citation: Hagerty, Re, 2013 ABASC 143 **Date: 20130408**
Docket: ENF-008553

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

To: **Sherry Hagerty and Gary Hagerty**

Notice: The Alberta Securities Commission (**Commission**) will convene at 2:30 pm on Monday, the 6th day of May 2013, at Calgary, or elsewhere, in Alberta, to deal with any preliminary matters, and to set a date for a hearing regarding the allegations in this Notice. At the hearing, the Commission will consider whether it is in the public interest to order:

(i) Under subsection 198(1)(b) of the *Act*, that you cease trading in or purchasing securities;

(ii) Under subsection 198(1)(i) of the *Act*, that you pay to the Commission any amounts obtained or payments or losses avoided as a result of non-compliance with Alberta securities laws;

(iii) Under subsection 199 of the *Act*, that you each pay an administrative penalty;

(iv) Under subsections 202(1) of the *Act*, that you pay the costs of the investigation and hearing; and

(v) Such further and other order under Section 198 as the Commission deems appropriate.

Location: Alberta Securities Commission, 5th Floor, 250 – 5th Street SW, Calgary, Alberta.

Procedure: 1. You may obtain disclosure and particulars of the allegations in this Notice from Natasha Bazant, c/o Alberta Securities Commission, 600, 250 – 5 Street SW, Calgary, Alberta, T2P 0R4, telephone 403.297.4846, e-mail natasha.bazant@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 May 6, 2013, at 2:30 pm, or as directed, the hearing may proceed in your absence and an order may be made against you without further notice.

See also section 29 of the Act and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.

Allegations

Summary of Breaches

1 Staff of the Commission (**Staff**) allege that Sherry Hagerty and Gary Hagerty (the **Respondents**), breached Alberta securities laws concerning illegal insider trading and acted contrary to the public interest.

2 Staff allege that the Respondents made statements to investigators of the Commission that were misleading or untrue.

Parties

3 Provident Energy Ltd. (**Provident**) was a midstream company providing natural gas liquid extraction, fractionation, storage, terminalling and other ancillary midstream services, and at all material times, its shares were listed on the Toronto Stock Exchange under the symbol PVE and on the New York Stock Exchange under the symbol PVX.

4 Pembina Pipeline Corporation (**Pembina**) is an oil and gas transportation and service provider, and at all material times, its shares were listed on the Toronto Stock Exchange under the symbol PPL.

5 Sherry Hagerty (**Sherry**), is a resident of Calgary, Alberta, and at all material times was employed by Pembina as the corporate risk manager.

6 Gary Hagerty (**Gary**), is a resident of Calgary, Alberta, and at all material times was employed by Pembina on contract. Gary is Sherry's husband.

Circumstances

7 On or about 21 November 2011, Pembina decided to initiate a process to explore the possibility of pursuing a business combination of Pembina and Provident.

8 On 7 December 2011, negotiations as to the potential acquisition of Provident by Pembina commenced between Pembina and Provident.

9 On 21 December 2011, Provident confirmed its willingness to enter into an exclusive due diligence period with Pembina, and agreed to continue good faith negotiations related to the proposed transaction.

10 On 22 December 2011, a special committee of the Board of Chairs of Pembina met with Pembina's senior management as well as Pembina's financial and legal advisors. The special committee authorized a revised nonbinding proposal to be presented to Provident. That day, the revised nonbinding proposal was presented to Provident and Provident advised Pembina that it was prepared to proceed under the terms of the December 22, 2011 nonbinding proposal.

11 On 16 January 2012, the agreement to purchase Provident – a material fact or change with respect to Provident not previously generally disclosed – was announced by news release.

Insider Trading

12 On 22 December 2011, Sherry became aware, informally or otherwise, of the potential transaction between Pembina and Provident (a material fact with respect to Provident not generally disclosed). That day, Sherry advised Gary of the potential acquisition of Provident by Pembina after which they jointly decided to purchase Provident shares. Alternatively, Sherry recommended or encouraged Gary to purchase Provident shares.

13 At approximately 9:30 a.m. on 23 December 2011, Sherry was formally advised by Pembina's general counsel about the potential transaction between Pembina and Provident, was advised she was an insider, and was told she was prohibited from trading in securities of both Pembina and Provident.

14 At approximately 11:12 a.m. on 23 December 2011, knowing of the potential acquisition of Provident (a material fact with respect to Provident not generally disclosed), Gary purchased 5,000 shares in Provident at $9.89 per share.

15 On 8 February 2012, subsequent to the announcement of the agreement to purchase Provident, Gary sold the 5,000 Provident shares at $11.88 per share, for a profit of $9,942.

Misleading and Untruthful Statements to Investigators

16 In their interviews with investigators on 16 May 2012, the Respondents provided false and misleading statements regarding Sherry's conversations on 23 December 2011 with Pembina's general counsel and chief financial officer in relation to their intended and actual purchase of Provident shares.

Breaches and Public Interest

17 As a result of the above, Staff allege that Gary breached section 147(2) of the *Act* by purchasing securities in Provident, a reporting issuer, while in a special relationship with Provident and having knowledge of a material fact or change with respect to Provident that had not been generally disclosed.

18 Staff allege that Sherry breached section 147(3) of the *Act* by informing another of a material fact or change with respect to Provident, a reporting issuer, while in a special relationship with Provident and having knowledge of a material fact or change with respect to Provident that had not been generally disclosed.

19 Alternatively, Staff allege that Sherry breached section 147(3.1) by recommending or encouraging Gary to purchase securities in Provident, a reporting issuer, while in a special relationship with Provident and having knowledge of a material fact or change with respect to Provident that had not been generally disclosed.

20 Staff allege the Respondents breached section 221.1 of the *Act* by making statements to investigators of the Commission that, in a material respect, were misleading or untrue.

21 Staff allege that Sherry's failure to take any reasonable steps to prevent the trade in Provident shares from occurring while she was in a special relationship with Provident and knowing that she had jointly made a decision with her husband in relation to the imminent purchase of Provident shares, as well as the breaches of the *Act* described herein, constitute conduct contrary to the public interest.

Calgary, Alberta, 8 April 2013.

ALBERTA SECURITIES COMMISSION

"Original Signed By"

W.E. Brett Code, Q.C.
Director, Enforcement