



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- and -

**IN THE MATTER OF
GORDON MAK**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) allege:

I. OVERVIEW

1. On December 2, 2014, Gordon Mak (“Mak”) entered into a Settlement Agreement and Undertaking with the Alberta Securities Commission (the “ASC”) (the “Settlement Agreement”).
2. Pursuant to the Settlement Agreement, Mak agreed to certain undertakings and to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
3. Staff are seeking an inter-jurisdictional enforcement order reciprocating the Settlement Agreement, pursuant to paragraph 5 of subsection 127(10) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”).
4. The conduct for which Mak was sanctioned took place from 2006 to 2010 (the “Material Time”).

5. At the time of the Settlement Agreement, Mak was a resident of Calgary, Alberta. In the Settlement Agreement, Mak admitted to unregistered trading and advising, and engaging in an illegal distribution of securities of Goldenrod Resources Inc. (“Goldenrod”) and Clean Power Technologies Inc. (“Clean Power”).
6. Mak further admitted to concealing his activities with respect to Goldenrod and Clean Power from ASC investigators during the course of the ASC’s investigation.

II. THE ASC PROCEEDINGS

Agreed Facts

7. In the Settlement Agreement, Mak agreed with the following facts:

Circumstances

- a. Mak is a resident of Calgary, Alberta.
- b. Goldenrod was incorporated in Alberta on February 15, 2001, and at all material times carried on business in Calgary, Alberta.
- c. Clean Power was incorporated in Nevada and registered extra-provincially in Alberta on January 8, 2007. At all material times it carried on business in Calgary, Alberta.
- d. None of Mak, Goldenrod, or Clean Power have ever been registered with the ASC as a salesperson or an advisor, and neither a preliminary prospectus nor final prospectus were ever filed with and receipted by the ASC for the distribution of any Goldenrod or Clean Power securities.

Goldenrod

- e. From 2006 to 2010, Goldenrod raised funds from investors in Alberta through documents called net profit agreements (“NPA’s”). The NPA’s were purportedly in respect of specific gas assets or a gas processing facility, and were to pay returns, typically at 1%, from the profits of the particular well or facility.

- f. At least 50 investors purchased NPA's, with total funds raised by Goldenrod amounting to approximately \$5.5 million. Mak assisted with fundraising activities on behalf of Goldenrod, including meeting with prospective investors, providing advice, soliciting investments, and handling investment dollars.
- g. The NPA's were securities, and the sale of the securities by Mak to investors were trades, as those terms are defined in the Alberta *Securities Act*, R.S.A. 2000, c. S-4, as amended (the "ASA"). As first trades in securities that were not previously issued, the sales were also a distribution under the ASA.

Clean Power

- h. From 2007 to 2008, Clean Power raised funds from investors in Alberta. At least 87 investors purchased securities in Clean Power, with total funds raised amounting to at least \$2,200,000. Mak assisted with fundraising activities on behalf of Clean Power, including meeting with prospective investors, providing advice, participating in sales meetings, soliciting investments, and handling investment dollars.
- i. The sale of securities of Clean Power constituted trades, as that term is defined in the ASA. As first trades in securities that were not previously issued, the sales were also a distribution under the ASA.

Concealing Activities

- j. Mak was interviewed by ASC Staff investigators with respect to his role and activities in the trading of Goldenrod and Clean Power securities. He concealed certain of his activities during that interview, specifically that he:
 - i) received funds from Goldenrod, and its investors, for his activities related to the sale of NPA's;
 - ii) received funds from Clean Power, and its investors, for his activities related to the sale of its shares; and

- iii) provided advice to investors to purchase the Goldenrod and Clean Power securities.
- k. Mak requested and received in excess of \$30,000 as fees or payments from investors in connection with the sale of securities of Goldenrod or Clean Power.

Breaches

- l. Mak breached:
 - i) section 75(1)(a) of the ASA by trading in securities of Goldenrod and Clean Power without registration;
 - ii) section 75(1)(b) of the ASA by acting as an advisor with respect to the Goldenrod and Clean Power investments without registration;
 - iii) section 110 of the ASA by engaging in a distribution of securities of Goldenrod and Clean Power without filing with the ASC and receiving a receipt for a preliminary prospectus and prospectus; and
 - iv) section 93.4(1) of the ASA by concealing or withholding information reasonably required for an investigation under the ASA.
- m. Mak's unregistered sales to Albertans of, and advice in relation to, securities in Goldenrod and Clean Power, and his concealment and withholding of information reasonably required for an investigation under the ASA, constituted conduct contrary to the public interest.

The Settlement Agreement and Undertaking

- 8. Pursuant to the Settlement Agreement, Mak agreed to certain undertakings and to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta:

- a. to pay to the ASC the amount of \$80,000 in settlement of the allegations;
- b. for a period of 6 years from the date of the Settlement Agreement:
 - (i) to cease trading in or purchasing securities and derivatives, with the exception that Mak is permitted to trade in one personal: brokerage account, LIRA account, and TFSA account, provided that such trading is through a registrant who has been given a copy of the Settlement Agreement;
 - (ii) to refrain from using any of the exemptions contained in Alberta securities laws;
 - (iii) to refrain from advising in securities or derivatives; and
- c. to pay to the ASC the amount of \$15,000 towards investigation costs.

III. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

9. In the Settlement Agreement, Mak agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
10. Pursuant to paragraph 5 of subsection 127(10) of the Act, an agreement with a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, to be made subject to sanctions, conditions, restrictions or requirements on the person or company may form the basis for an order in the public interest made under subsection 127(1) of the Act.
11. Staff allege that it is in the public interest to make an order against Mak.
12. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

13. Staff request that this application be heard by way of a written hearing pursuant to Rules 2.6 and 11 of the Ontario Securities Commission *Rules of Procedure* (2014), 37 OSCB 4168.

DATED at Toronto, this 1st day of April, 2015.