



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF
DAVID GREGOR McCLURE**

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

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

I. OVERVIEW

1. On August 16, 2017, David Gregor McClure (**McClure** or the **Respondent**) entered into a Settlement Agreement and Undertaking (the **Settlement Agreement**) with the Alberta Securities Commission (the **ASC**).
2. Pursuant to the Settlement Agreement, McClure 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 (the **Act**).

II. THE ASC PROCEEDINGS

Agreed Facts

Parties

4. McClure was a resident of Calgary, Alberta, and not registered as a dealer under section 75 of the Alberta *Securities Act*, RSA 2000 c S-4 (the **Alberta Securities Act**).

5. McClure was a director of Bedford Biofuels Inc. (**Bedford**) and exercised day-to-day control over the corporation's operations. Bedford was an Alberta corporation, incorporated on November 14, 2008.
6. McClure was a director of Bedford Biofuels Tana Delta Phase 1 Investment Corporation (**Bedford Tana Delta**) and exercised day-to-day control over the corporation's operations. Bedford Tana Delta was an Alberta corporation, incorporated on June 29, 2009.
7. McClure was the *de facto* director of Arts Without Borders Inc. (**AWB**) and exercised day-to-day control over the corporation's operations. AWB was an Alberta corporation, incorporated on July 20, 2010.
8. McClure was a director of Bella Bay Investments (Barbados) Inc. (**Bella Bay**) and exercised day-to-day control over the corporation's sales. Bella Bay was incorporated under the laws of Barbados on April 18, 2012.

Circumstances

Illegal Distributions - Bedford

9. Bedford was incorporated for a legitimate business purpose. Its business plan involved the development of biofuel plantations in Kenya. No preliminary prospectus or prospectus was ever filed on behalf of Bedford.
10. Between November 14, 2008 and December 31, 2012, Bedford raised approximately \$11,000,000 from investors for the development of its biofuel business in Kenya. A portion of this amount, \$975,000, was raised by McClure by selling shares of Bedford to five investors resident in Alberta who did not qualify for any exemptions under the *Alberta Securities Act*. McClure raised \$975,000 for Bedford from the five investors, contrary to the *Alberta Securities Act*.

Illegal Distributions – Bedford Tana Delta

11. Bedford Tana Delta was incorporated to raise proceeds to finance the purchase of agricultural leases in Kenya for the cultivation of biofuels. Bedford Tana Delta was part of Bedford's business plan regarding the development of the Kenyan biofuel plantations.
12. Between February 1, 2010 and December 15, 2011, Bedford Tana Delta issued six Offering Memoranda. Bedford Tana Delta raised approximately \$5,300,000 between February 1, 2010 and May 25, 2012. Although some of the investment monies were legitimately raised pursuant to the Offering Memoranda, McClure solicited, either himself or through employees he supervised, three investors resident in Alberta for Bedford Tana Delta. These investors were purportedly qualified as eligible investors under Alberta securities laws; however, these three investors did not, in fact, meet the criteria for the eligible investor exemption or for any exemptions under the *Alberta Securities Act*. McClure raised \$72,000 for Bedford Tana Delta from the three investors, contrary to the *Alberta Securities Act*.

Unregistered Dealing and Illegal Distributions – AWB

13. 1548715 Alberta Ltd. was incorporated in Alberta on July 20, 2010 and on March 10, 2011 changed its name to Arts Without Borders Inc. (**AWB**). AWB's purpose was to take any profits from leasing art to customers in Canada and use them to support micro-lending to Kenyan employees working on Bedford's biofuel plantations in Kenya. No preliminary prospectus or prospectus was ever filed on behalf of AWB.
14. McClure solicited five investors resident in Alberta for AWB, ostensibly relying on the employee and accredited investor exemptions under Alberta securities laws. These investors did not, in fact, qualify for any of these exemptions and no prospectus requirement exemption was available. McClure raised \$125,000 for AWB from the five investors, contrary to the *Alberta Securities Act*.

Unregistered Dealing and Illegal Distributions – Bella Bay

15. Bella Bay was created for the purpose of developing real estate properties in Honduras. No preliminary prospectus or prospectus was ever filed on behalf of Bella Bay in Alberta.
16. In 2012, McClure solicited three couples, resident in Alberta, to invest in Bella Bay. The Bella Bay investment included shares in the company, real estate in Honduras, and shares in Bedford. The investors did not qualify for any exemptions under the Alberta *Securities Act*, and no prospectus requirement exemption was available. McClure raised \$200,000 for Bella Bay and Bedford from the sale of shares in Bella Bay and Bedford to the investors, contrary to the Alberta *Securities Act*.

Misleading or Untrue Statements Regarding Bedford

17. Bedford ran into difficulties with the implementation of its business plan in Kenya in 2011. McClure began to make efforts to sell the company. Starting in the fall of 2011, McClure, on behalf of Bedford, retained agents in Hong Kong to identify and solicit potential purchasers for Bedford.
18. McClure made representations to three investors resident in Alberta in late 2011 and early 2012 that Bedford was about to be sold to an Asian buyer for \$70 to \$80 million, and that the closing would take place in April 2012. McClure represented that Bedford needed further funds to close the sale. At the time of these representations no actual buyer for Bedford existed. No actual buyer for Bedford ever came forward and on January 31, 2013 Bedford filed an Assignment in Bankruptcy.
19. As a result of McClure's representations regarding the imminent sale of Bedford, a further \$450,000 was raised for Bedford from the three investors.

Admitted Breaches of Alberta Securities Law

20. Based on the Agreed Facts, McClure admits that he:
 - i. breached section 75(1) of the Alberta *Securities Act* by trading in the securities of AWB and Bella Bay without being registered to do so under Alberta securities laws

and without an exemption from the registration requirement, as set out in paragraphs 14 and 16 above;

- ii. breached section 110(1) of the Alberta *Securities Act* by distributing the securities of Bedford, Bedford Tana Delta, AWB, and Bella Bay without being registered to do so under Alberta securities laws and without filing a preliminary prospectus or a prospectus with the ASC's Executive Director and obtaining a receipt therefor, as set out in paragraphs 9 to 16 above; and
- iii. breached section 92(4.1) of the Alberta *Securities Act* by making representations to investors regarding the purported sale of Bedford to Asian buyers that were materially misleading or untrue, as set out in paragraphs 18 and 19 above.

The Settlement Agreement and Undertakings

- 21. Pursuant to the Settlement Agreement, McClure agreed to certain undertakings and to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta:
 - i. McClure agreed and undertook to the ASC's Executive Director to:
 - (a) pay to the ASC the amount of \$50,000 as settlement;
 - (b) pay to the ASC the amount of \$30,000 for investigation and legal costs incurred by ASC Staff;
 - (c) resign all positions he may have as a director or officer of any issuer that relies on any exemptions contained in Alberta securities laws or that distributes securities to the public; and
 - (d) refrain for a period of three (3) years from the date of the Settlement Agreement from:

1. becoming or acting as a director or officer, or both, of any issuer that relies on any exemptions contained in Alberta securities laws or that distributes securities to the public;
2. trading in or purchasing any securities or derivatives except trades in an RRSP, RESP, or other such plans permitted under Canadian tax law where such plans are operated for his benefit, or for the benefit of any immediate member of his family, provided such trades are made through a registrant who has first been given a copy of the Settlement Agreement;
3. relying on any or all of the exemptions contained in Alberta securities laws;
4. engaging in any investor relations activities;
5. advising in securities or derivatives; and
6. acting in a management or consultative capacity in connection with activities in the securities market.

III. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

22. In the Settlement Agreement, the Respondent agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
23. 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 a person or company may form the basis for an order in the public interest made under subsection 127(1) of the Act.
24. Staff allege that it is in the public interest to make an order against the Respondent.
25. 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.

26. 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*.

DATED at Toronto, this 31st day of August, 2017.