



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

P.O. Box 55, 19<sup>th</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

CP 55, 19e 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 SHALLOW OIL & GAS INC., ERIC O'BRIEN, ABEL DA SILVA,  
GURDIP SINGH GAHUNIA also known as MICHAEL GAHUNIA, ABRAHAM  
HERBERT GROSSMAN also known as ALLEN GROSSMAN, MARCO DIADAMO,  
GORD McQUARRIE, KEVIN WASH, and WILLIAM MANKOFSKY**

---

---

**SETTLEMENT AGREEMENT BETWEEN  
STAFF OF THE ONTARIO SECURITIES COMMISSION  
AND MARCO DIADAMO**

---

---

**PART I. - INTRODUCTION**

1. By Notice of Hearing dated June 11, 2008, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on June 18, 2008, to consider whether, pursuant to sections 37, 127, and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") it is in the public interest to make orders, as specified therein, against Shallow Oil & Gas Inc. ("Shallow Oil"), Eric O'Brien ("O'Brien"), Abel Da Silva ("Da Silva"), Gurdip Singh Gahunia, also known as Michael Gahunia ("Gahunia"), Abraham Herbert Grossman, also known as Allen Grossman ("Grossman"), Marco Diadamo

(“Diadamo”), Gord McQuarrie (“McQuarrie”), Kevin Wash (“Wash”), and William Mankofsky (“Mankofsky”). The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission dated June 10, 2008 (the “Allegations”).

2. The Commission will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 37 and 127 of the Act, it is in the public interest for the Commission to approve this Settlement Agreement (the “Agreement”), between Staff of the Commission (“Staff”) and Diadamo, and to make certain orders in respect of Diadamo.

## **PART II. – JOINT SETTLEMENT RECOMMENDATION**

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated June 11, 2008 against Diadamo in accordance with the terms and conditions set out below. Diadamo consents to the making of an order against him in the form attached as Schedule “A” on the basis of the facts set out below.

## **PART III. – AGREED FACTS**

### **Background**

4. Diadamo is a resident of the Greater Toronto Area.

5. While trading in securities of Shallow Oil (the “Shallow Oil Securities”), Diadamo was not registered in any capacity with the Commission.

### **Shallow Oil & Gas Inc.**

6. Between and including September, 2007 and January, 2008 (the “Material Time”), Shallow Oil and the individual respondents traded Shallow Oil Securities from premises located at Unit 224, 7181 Woodbine Avenue, Markham, Ontario (the “Premises”).

7. During the Material Time, Shallow Oil Securities were traded to numerous investors located in Alberta, Manitoba, Nova Scotia, Ontario, Saskatchewan and these investors sent over \$200,000 to Shallow Oil to purchase shares of Shallow Oil.

8. Throughout the Material Time, Shallow Oil was not registered in any capacity with the Commission.

9. The trades in Shallow Oil Securities were trades in securities not previously issued and were therefore distributions. No preliminary prospectus or prospectus was filed and no receipts were issued for them by the Director to qualify the trading of Shallow Oil Securities.

#### **Diadamo and the trading of securities of Shallow Oil**

10. Throughout the Material Time, Diadamo was not registered with the Commission in any capacity.

11. Diadamo commenced working at Shallow Oil in November of 2007 and worked selling Shallow Oil Securities until January 14, 2008 (the "Material Time").

12. Sometime in November, 2007, Diadamo responded to an advertisement, printed in the Toronto Star newspaper, for employment as a salesperson. Diadamo attended at the offices of Shallow Oil located at Unit 224, 7181 Woodbine Avenue, Markham, Ontario (the "Premises") where he met with Grossman who hired him.

13. Grossman informed Diadamo about the nature of the Shallow Oil business, provided him with materials and directed him to a web site. Grossman informed Diadamo that he would be paid a commission equal to 25% of his gross sales of Shallow Oil Securities.

14. Commencing in November of 2007, Diadamo began selling Shallow Oil Securities to members of the public. These sales were done over the telephone from the Premises. Diadamo was supervised by Grossman who was in charge of the office.

15. During the Material Time, Diadamo would be provided with “qualified leads” of potential investors. These leads were provided to him by persons under Grossman’s control and direction.

16. The individuals and companies being contacted were being pitched on purchasing Shallow Oil Securities. The individuals would be directed to the Shallow Oil website and would be sent information with respect to Shallow Oil. Diadamo learned about Shallow Oil from looking at the Shallow Oil website and from materials about Shallow Oil provided by DaSilva and by persons working under the direction of Grossman.

17. Potential investors were sent information packages about Shallow Oil by e-mail or facsimile.

18. Diadamo advised potential investors and investors, with the intention of effecting trades, that Shallow Oil was intending to go public and that the value or price of the Shallow Oil Securities would rise significantly when Shallow Oil was listed on a stock exchange. Using scripts provided to him at the Premises, Diadamo misled investors about the underlying business of Shallow Oil and sales of Shallow Oil Securities to institutional investors.

19. After orally agreeing to invest, investors received a subscription agreement from Shallow Oil. The subscription agreement set out the quantity, unit price and total amount of investment. Investors were instructed to make cheques payable to Shallow Oil and to send the subscription agreement and cheques to 161 Bay Street, 27<sup>th</sup> floor, Toronto, Ontario.

20. When Diadamo was contacting potential investors by telephone he would identify himself as “Mark Rogers” rather than using his real name.

21. During the Material Time, Diadamo made the following sales of Shallow Oil Securities:

<b>Initials of Investors</b>	<b>Province</b>	<b>Dollar Value of Shares Purchased</b>	<b>Name of Salesperson as Provided to Investor</b>	
S.B.	ON	\$2,500	Mark Rogers	Dec. 5, 2007
D.D.	AB	\$1,000	Mark Rogers	Dec. 10, 2007
R.G.	AB	\$500	Mark Rogers	Nov. 16, 2007
B.H.	NS	\$1,000	Mark Rogers	Nov. 20, 2007
P.K.	AB	\$1,000	Mark Rogers	Nov. 29, 2007
G.L.	SK	\$500	Mark Rogers	Dec. 3, 2007
P.M.	AB	\$500	Mark Rogers	Nov. 28, 2007
P.M. #2	AB	\$1000	Mark Rogers	Dec. 3, 2007
W.N.	AB	\$1000	Mark Rogers	Nov. 29, 2007
J.P.	ON	\$5000	Mark Rogers	Dec. 11, 2007
M.P.	ON	\$1000	Mark Rogers	Dec. 03, 2007
A.S.	AB	\$5000	Mark Rogers	Dec. 11, 2007
C.S.	AB	\$20,000	Mark Rogers	Dec. 18, 2007
<b>Total</b>		<b>\$40,000</b>		

22. As set out above, Diadamo sold Shallow Oil Securities to 13 individuals. For his role in the illegal sale of Shallow Oil Securities, Diadamo and was paid a total of \$11,625 in commissions.

23. Diadamo directed the individuals purchasing Shallow Oil Securities to send their payment and completed subscription agreement to the TD Tower, 161 Bay Street, 27<sup>th</sup> Floor, Toronto, Ontario. This address is a Regus business centre virtual office (the "Regus Address") and packages arriving at the Regus Address would then be forwarded to the Premises.

24. Diadamo took no steps to confirm whether Shallow Oil actually had an office on Bay Street in Toronto.

25. At no point did Diadamo disclose to investors or potential investors the actual location of the Premises.

26. Payments to Diadamo for his sales of Shallow Oil Securities were made by cheques written on a bank account in the name of Shallow Oil.
27. At no point did Diadamo advise investors that he would be receiving a commission of approximately 25% of the total purchase price paid by them for Shallow Oil Securities.
28. When persuading investors to buy Shallow Oil Securities, Diadamo was not aware of any legitimate assets possessed by Shallow Oil. He did not exercise any due diligence to ensure what he was telling investors about Shallow Oil, including its alleged assets, was true.
29. In addition to the sales of shares set out above, Diadamo also made two further sales of Shallow Oil Securities in the amounts of \$1,500 and \$1,000 that were never completed. The courier packages containing the cheques from two investors (S.A. and E.M.) were intercepted by Staff prior to them being cashed. Again, Diadamo sold Shallow Oil Securities to S.A. and E.M. using the alias Mark Rogers.
30. On January 14, 2008, Staff conducted an inspection of the Premises when Diadamo was present. Diadamo was located in an office he occupied with Wash adjacent to the office used by Grossman.

#### **PART IV. - CONDUCT CONTRARY TO THE PUBLIC INTEREST**

31. By engaging in the conduct described above, Diadamo admits and acknowledges that he contravened Ontario securities law in the following ways:
- (a) Trading securities of Shallow Oil without being registered with the Commission to trade in securities, contrary to subsection 25(1)(a) of the Act;
  - (b) Trading in securities of Shallow Oil in circumstances where the trading constituted a distribution and where no preliminary prospectus and prospectus in respect of such securities had been filed and receipts issued by the Director, contrary to subsection 53(1) of the Act; and

- (c) Engaging or participating in acts, practices or courses of conduct relating to the securities of Shallow Oil that he knew or ought to have known perpetrated a fraud on investors in Ontario and elsewhere in Canada, contrary to subsection 126.1(b) of the Act.

32. Diadamo admits and acknowledges that he acted contrary to the public interest by contravening Ontario securities law as set out in sub-paragraphs 31(a) to (c) above .

#### **PART V. - TERMS OF SETTLEMENT**

33. Diadamo agrees to the terms of settlement listed below.

34. The Commission will make an order, pursuant to section 37 and subsection 127(1) of the Act, that:

- (a) the Settlement Agreement is approved;
- (b) trading in any securities by Diadamo cease permanently from the date of the approval of the Settlement Agreement;
- (c) the acquisition of any securities by Diadamo is prohibited permanently from the date of the approval of the Settlement Agreement;
- (d) any exemptions contained in Ontario securities law do not apply to Diadamo permanently from the date of the approval of the Settlement Agreement;
- (e) Diadamo is reprimanded;

- (f) Diadamo is prohibited permanently from the date of the approval of the Settlement Agreement from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;
- (g) Diadamo is prohibited permanently from the date of the approval of the Settlement Agreement from becoming or acting as a registrant, as an investment fund manager or as a promoter; and,
- (h) Diadamo shall disgorge to the Commission the amount of \$11,625 obtained as a result of his non-compliance with Ontario securities law. The amount of \$11,625 disgorged shall be designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing Shallow Oil securities, in accordance with s. 3.4(2)(b) of the Act;
- (i) Diadamo shall pay an administrative penalty in the amount of \$5,812 for his failure to comply with Ontario securities law. The administrative penalty in the amount of \$5,812 shall be designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing Shallow Oil securities, in accordance with s. 3.4(2)(b) of the Act; and
- (j) Diadamo is prohibited permanently, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities ; and
- (k) Notwithstanding the provisions of this Order, once Diadamo has fully satisfied the terms of sub-paragraphs (h) and (i) above, Diadamo is permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this order) in (a) any "exchange-traded security" or "foreign exchange-traded security"

within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; (b) any security issued by a mutual fund that is a reporting issuer; and provided that Diadamo provides Staff with the particulars of the accounts in which such trading is to occur (as soon as practicable before any trading in such accounts occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and Diadamo shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to trading in the accounts directly to Staff at the same time that such notices are provided to him; or (c) any shares in a “private company” as defined in section 1 of the Act.

35. Any amounts paid to the Commission under the disgorgement and administrative penalty orders in this matter shall be allocated to or for the benefit of third parties other than Diadamo, including investors who lost money as a result of investing in the Shallow Oil Securities, in accordance with subsection 3.4(2)(b) of the Act. Such amounts are to be distributed to investors who lost money as a result of investing in the Shallow Oil Securities on such basis, on such terms and to such investors as Staff in its discretion determines to be appropriate in the circumstances. A distribution to investors shall be made only if Staff is satisfied that doing so is reasonably practicable in the circumstances and only if Staff concludes that there are sufficient funds available to justify doing so. If, for any reason, Staff decides at any time or from time to time not to distribute any such amounts to investors, such amounts may, by further Commission order, be allocated to or for the benefit of other third parties. Any panel of the Commission may, on the application of Staff, make any order it considers expedient with respect to the matters addressed by this paragraph.

36. The terms of paragraph 35 above shall not give rise to or confer upon any person, including any investor (i) any legal right or entitlement to receive, or any interest in, amounts received by the Commission under the orders for disgorgement and administrative penalty, or (ii) any right to receive notice of any application by Staff to the Commission made in connection

with that paragraph or of any exercise by the Commission of any discretion granted to it under that paragraph.

37. Diadamo undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in subparagraphs 34(b) to (g) and (j) above.

#### **PART VI. - STAFF COMMITMENT**

38. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Diadamo in relation to the facts set out in Part III herein, subject to the provisions of paragraph 39 below.

39. If this Settlement Agreement is approved by the Commission, and at any subsequent time Diadamo fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Diadamo based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

#### **PART VII. - PROCEDURE FOR APPROVAL OF SETTLEMENT**

40. Approval of this Settlement Agreement will be sought at a hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by Staff and Diadamo for the scheduling of the hearing to consider the Settlement Agreement.

41. Staff and Diadamo agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding Diadamo's conduct, unless the parties agree that further facts should be submitted at the settlement hearing.
42. If this Settlement Agreement is approved by the Commission, Diadamo agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.
43. If this Settlement Agreement is approved by the Commission, neither party will make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.
44. Whether or not this Settlement Agreement is approved by the Commission, Diadamo agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

#### **PART VIII. – DISCLOSURE OF SETTLEMENT AGREEMENT**

45. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" is not made by the Commission:
- (a) this Settlement Agreement and its terms, including all settlement negotiations between Staff and Diadamo leading up to its presentation at the settlement hearing, shall be without prejudice to Staff and Diadamo; and
  - (b) Staff and Diadamo shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

46. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of both Diadamo and Staff or as may be required by law.

**PART IX. - EXECUTION OF SETTLEMENT AGREEMENT**

47. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement

48. A facsimile copy of any signature will be as effective as an original signature.

Signed in the presence of:

*“Mary-Anne Diadamo”*

*“Marco Diadamo”*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Marco Diadamo**

Dated this 25<sup>th</sup> day of November, 2011

**STAFF OF THE ONTARIO SECURITIES COMMISSION**

*per “Karen Manarin”*

\_\_\_\_\_  
**Tom Atkinson**  
Director, Enforcement Branch

Dated this            day of November, 2011.



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

P.O. Box 55, 19<sup>th</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

CP 55, 19<sup>e</sup> étage  
20, rue queen ouest  
Toronto ON M5H 3S8

---

**Schedule "A"**

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

**- AND -**

**IN THE MATTER OF SHALLOW OIL & GAS INC., ERIC O'BRIEN, ABEL DA SILVA,  
GURDIP SINGH GAHUNIA also known as MICHAEL GAHUNIA, ABRAHAM  
HERBERT GROSSMAN also known as ALLEN GROSSMAN, MARCO DIADAMO,  
GORD McQUARRIE, KEVIN WASH, and WILLIAM MANKOFSKY**

**- AND -**

**IN THE MATTER OF A SETTLEMENT AGREEMENT BETWEEN STAFF OF THE  
ONTARIO SECURITIES COMMISSION AND MARCO DIADAMO**

**ORDER  
(Sections 37 and 127(1))**

**WHEREAS** on June 11, 2008, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 37 and 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended in respect of Marco Diadamo ("Diadamo");

**AND WHEREAS** Diadamo entered into a Settlement Agreement with Staff of the Commission dated \_\_\_\_\_ (the "Settlement Agreement") in which Diadamo agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement, the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from Diadamo and from Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT:**

- (a) the Settlement Agreement is approved;
- (b) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by Diadamo cease permanently from the date of the approval of the Settlement Agreement;
- (c) pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Diadamo is prohibited permanently from the date of the approval of the Settlement Agreement;
- (d) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Diadamo permanently from the date of the approval of the Settlement Agreement;
- (e) pursuant to paragraph 6 of subsection 127(1) of the Act, Diadamo is reprimanded;
- (f) pursuant to paragraphs 8, 8.2 and 8.4, respectively, of subsection 127(1) of the Act, Diadamo is prohibited permanently from the date of the approval of the Settlement Agreement from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

- (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Diadamo is prohibited permanently from the approval of the Settlement Agreement from becoming or acting as a registrant, as an investment fund manager or as a promoter;
- (h) pursuant to paragraph 10 of subsection 127(1) of the Act, Diadamo shall disgorge to the Commission the amount of \$11,625 obtained as a result of his non-compliance with Ontario securities law. The amount of \$11,625 disgorged shall be designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing Shallow Oil securities, in accordance with s. 3.4(2)(b) of the Act;
- (i) pursuant to paragraph 9 of subsection 127(1) of the Act, Diadamo shall pay an administrative penalty in the amount of \$5,812 for his failure to comply with Ontario securities law. The administrative penalty in the amount of \$5,812 shall be designated for allocation to or for the benefit of third parties, including investors who lost money as a result of purchasing Shallow Oil securities, in accordance with s. 3.4(2)(b) of the Act;
- (j) pursuant to subsection 37(1) of the Act, Diadamo shall cease permanently, from the date of the approval of the Settlement Agreement, to telephone from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and
- (k) Notwithstanding the provisions of this Order, once Diadamo has fully satisfied the terms of sub-paragraphs (h) and (i) above, Diadamo is permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own

beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; (b) any security issued by a mutual fund that is a reporting issuer; and provided that Diadamo provides Staff with the particulars of the accounts in which such trading is to occur (as soon as practicable before any trading in such accounts occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and Diadamo shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to trading in the accounts directly to Staff at the same time that such notices are provided to him; or (c) any shares in a “private company” as defined in section 1 of the Act.

Any amounts paid to the Commission under the disgorgement and administrative penalty orders in this matter shall be designated for allocation to or for the benefit of third parties other than Diadamo, including investors who lost money as a result of investing in the Shallow Oil Securities, in accordance with subsection 3.4(2)(b) of the Act. Such amounts are to be distributed to investors who lost money as a result of investing in the Shallow Oil Securities on such basis, on such terms and to such investors as Staff in its discretion determines to be appropriate in the circumstances. A distribution to investors shall be made only if Staff is satisfied that doing so is reasonably practicable in the circumstances and only if Staff concludes that there are sufficient funds available to justify doing so. If, for any reason, Staff decides at any time or from time to time not to distribute any such amounts to investors, such amounts may, by further Commission order, be allocated to or for the benefit of other third parties. Any panel of the Commission may, on the application of Staff, make any order it considers expedient with respect to the matters addressed by this paragraph.

The terms of the paragraph above shall not give rise to or confer upon any person, including any investor (i) any legal right or entitlement to receive, or any interest in, amounts received by the Commission under the orders for disgorgement and administrative penalty, or (ii) any right to receive notice of any application by Staff to the Commission made in connection with that

paragraph or of any exercise by the Commission of any discretion granted to it under that paragraph.

**DATED AT TORONTO** this            day of November, 2011.

---

---