

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

**- AND -**

**IN THE MATTER OF  
JAMES PATRICK BOYLE, LAWRENCE MELNICK  
AND JOHN MICHAEL MALONE**

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

Staff of the Ontario Securities Commission (the “Commission”) make the following allegations:

**The Respondents**

1. James Patrick Boyle (“Boyle”) was, at the material time, a lawyer who specialized in securities law. From March 21, 1997 to August 21, 2000, Boyle was a director of Complex Minerals Inc. (“Complex”). In April, 2000, Complex changed its name to Ronin Resource Corp. (“Ronin”). Complex was, at the material time, a reporting issuer in Ontario. During the material time, Boyle practised at: Jones, Rogers; Boyle, Hobart; Boyle & Company; and Power Budd LLP. Boyle currently practices law at Boyle & Co. LLP in Toronto, Ontario.
2. Lawrence Melnick (“Melnick”) was, at the material time, the President of International Legacy Inc. (“International Legacy”), a reporting issuer in Ontario, the sole officer, director and shareholder of Gobitan Systems Inc. (“Gobitan”), a private Ontario company, and an officer, director and shareholder of Champion Gold Resources Inc. (“Champion Gold”), a reporting issuer in Ontario. Melnick was also the President and a director of Nucanolan Resources Ltd. (“Nucanolan”) from January, 1996 to April, 1997. Nucanolan was, at the material time, a reporting issuer in Ontario. Melnick is currently

the President of Champion Gold's successor, Champion Natural Health.Com Inc. ("Champion Natural"), an Ontario reporting issuer quoted on the Canadian Trading and Quotation System Inc. ("CNQ").

3. John Michael Malone ("Malone") was, at the material time, the President, a director, and the sole shareholder of Saxby Gale Management Corp. ("Saxby Gale"), a private Ontario company incorporated by Boyle. In October, 2001, Saxby Gale amalgamated with another private Ontario company, Darius Phase Equity Corp. ("Darius"). Malone was the director, officer and sole shareholder of Darius from October, 2001 until July, 2002. From January, 1996 to April, 1997, Malone was also an officer and director of Tupper Shields Corp. ("Tupper"), and between October, 1996 and November, 2000 the sole officer, a director and a shareholder of Tupper's sole shareholder, Welkin Cohort Trade Corp. ("Welkin"), both private Ontario companies. Tupper was a predecessor to Nucanolan. Malone is currently the Chief Operating Officer of the CNQ.

### **The Reporting Issuers and Other Corporate Participants**

4. The course of conduct at issue involved a number of individuals and corporate entities and centered on the securities of three Ontario reporting issuers: Complex, GoldMint Explorations Ltd. ("GoldMint") and Nucanolan.
5. First Mulmur Corporation ("FMC") was incorporated in Antigua on October 9, 1995. On April 1, 2003, FMC's registration was cancelled by the Financial Services Regulatory Commission of Antigua.
6. Spook the Cat Corporation ("Spook") was a private company incorporated by Boyle on April 1, 1990. At the material time, Boyle was the sole officer, director and shareholder of Spook.
7. 1184108 Ontario Limited ("1184108") was a private company incorporated by Boyle's law partner on June 17, 1996. At the material time, Boyle was the Secretary, Boyle's wife was the President and his law partner was the director of 1184108. Boyle was the sole shareholder of 1184108.

8. Dreamcore Development Corp. (“Dreamcore”) was a private Ontario company incorporated by Boyle on November 12, 1996. At the material time, Boyle and his wife were the officers, directors and shareholders of Dreamcore.
9. On December 31, 2004, Boyle amalgamated Spook, 1184108 and Dreamcore into Spook the Cat Corporation, a private Ontario company. Boyle is the sole officer and director of Spook the Cat Corporation.

### **Overview**

10. Throughout the material time, Boyle was the principal architect of a course of conduct involving the securities of Complex, GoldMint and Nucanolan. Boyle conceived and designed transactions which he executed primarily through nominees and accommodation parties, including friends, associates and members of his family. Melnick and Malone acted in concert with Boyle, and participated in the course of conduct.
11. In respect of each of the reporting issuers, Boyle, Melnick and Malone engaged in unregistered trading and engaged in, authorized or facilitated unlawful distributions of securities. The predominant purpose of the unlawful trading and distributions was to create tradeable securities for sale to the public. The conduct was repeated in substantially the same manner in respect of each of Complex, GoldMint and Nucanolan.
12. The creation of tradeable securities was achieved through a series of non-cash transactions, and through improper and abusive reliance on the provisions of the Ontario *Securities Act*, R.S.O. 1990, c.S.5, as amended (the “Act”), including exemptions to registration and prospectus requirements.
13. More than 24 million securities in Complex, GoldMint and Nucanolan were distributed to the broker dealers A.C. MacPherson & Co. Inc., J.M. Charter Securities Inc. and Arlington Securities Inc. (the “Broker Dealers”) which in turn sold the securities to members of the public.

14. The sale of the securities to members of the public generated funds, a significant proportion of which were ultimately transferred to Boyle, Melnick and Gobitan. The majority of the proceeds obtained by Boyle and Melnick personally were directed through FMC.
15. Boyle received approximately \$1.83 million and Melnick and Gobitan received approximately \$1.47 million. Malone received \$6,500.00 as a result of his participation in the course of conduct.
16. The last payout of the proceeds was in 2002.

### **Formation of the Reporting Issuers Complex, GoldMint and Nucanolan**

#### **(a) Complex**

17. As at October 19, 1995, Melnick was the President of International Legacy. Melnick controlled International Legacy through his personal holdings and the holdings of Champion Gold. On October 19, 1995, International Legacy changed its name to Complex and acquired all of the issued and outstanding shares of Coldwell Complex Minerals Corp. (“Coldwell”), Finexim Overseas Inc. (“Finexim”) and Cat Lake Lithium Corp. (“Cat Lake”). Melnick arranged for the market maker for Complex. The common shares of Complex commenced trading on the Canadian Dealing Network (“CDN”) on November 8, 1995.
18. Boyle was the incorporator of and counsel to each of Coldwell, Finexim and Cat Lake. The directors and officers of Coldwell, Finexim and Cat Lake were nominees or accommodation parties of Boyle’s. Boyle also acted as counsel to International Legacy, Champion Gold and Complex.

#### **(b) GoldMint**

19. On June 7, 1996, Edifice Explorations Ltd. (“Edifice”), an Ontario reporting issuer, acquired all of the issued and outstanding shares of Trip Line Mineral Development Inc. (“Trip”) and Higley Flow Equities Ltd. (“Higley”), both private Ontario companies, and amalgamated with 1170406 Ontario Limited (“1170406”). On June 11, 1996, Edifice

changed its name to GoldMint. The common shares of GoldMint commenced trading on the CDN on July 30, 1996.

20. Boyle was the incorporator of and counsel to each of Trip, Higley and 1170406. The directors and officers of Edifice, Higley and 1170406 were nominees or accommodation parties of Boyle's. Boyle also acted as counsel to Edifice and GoldMint.

**(c) Nucanolan**

21. On April 18, 1997, Nucanolan acquired all of the issued and outstanding shares of Spiral Mountain Resource Corp. ("Spiral"), Minnissabik Mineral Corp. ("Minnissabik") and Tupper. Melnick authorized the issuance of more than 28 million securities to effect this acquisition. Melnick also arranged for the market maker for Nucanolan. The common shares of Nucanolan commenced trading on the CDN on July 7, 1997.
22. Boyle was the incorporator of and counsel to each of Spiral, Minnissabik and Tupper. Boyle was an officer of Spiral and his nominee or accommodation party was the director, an officer and a shareholder of Spiral. Boyle's nominees or accommodation parties were the officers, directors and shareholders of Minnissabik. Malone and a Boyle nominee or accommodation party were the officers and directors of Tupper. Tupper's sole shareholder was Welkin, which was owned by Malone and a Boyle nominee or accommodation party. Boyle was also counsel to Nucanolan.

**Distributions to Nominee Shareholders**

23. In respect of each of the reporting issuers, Complex, GoldMint and Nucanolan, Boyle designed and implemented transactions whereby nominees or accommodation parties (the "Nominee Shareholders") were issued securities of the reporting issuer, or were issued securities of the predecessor companies which were then replaced with securities of the reporting issuer.
24. In filings with the Commission on behalf of each of Complex, GoldMint and Nucanolan in respect of the distributions of securities to the Nominee Shareholders, Boyle claimed reliance on the takeover bid exemptions from the registration and prospectus requirements (sections 35 and 72 of the Act, respectively).

25. These exemptions were not available. Even if available, in the circumstances this reliance was improper, abusive and contrary to the purposes of the Act. The reliance on these exemptions was part of a series of transactions designed to circumvent the provisions of the Act with a view to creating freely tradeable shares.

### **Distributions from Nominee Shareholders to Nominee Companies Via Three Step Process**

26. Boyle designed and implemented a three step process by which securities of each of the reporting issuers were transferred by the Nominee Shareholders to companies: owned by Boyle and Boyle's wife (1184108 and Dreamcore); owned by Malone (Saxby Gale); and owned or controlled by persons who were Boyle's nominees or accommodation parties (the "Nominee Companies"). With the exception of 1184108, each of the Nominee Companies was incorporated by Boyle.
27. First, the "economic potential" of the securities was sold by the Nominee Shareholders to FMC. To carry out the first step, Boyle prepared and had the Nominee Shareholders execute Agreements of Purchase and Sale. FMC provided promissory notes as non-cash consideration for the sales.
28. Second, the Nominee Shareholders transferred the "equity of redemption" of the securities to the Nominee Companies. To carry out the second step, Boyle prepared and had the Nominee Shareholders execute Trust Conveyances. Boyle signed Trust Conveyances on behalf of 1184108 and Dreamcore and Malone signed a Trust Conveyance on behalf of Saxby Gale. Pursuant to the Trust Conveyances, the Nominee Companies were trustees and the Nominee Shareholders were grantors and beneficiaries.
29. Third, the Nominee Companies purchased from FMC the "economic potential" of the securities. To carry out the third step, Boyle prepared and had the shareholders or other representatives of the Nominee Companies execute Asset Purchase Agreements and promissory notes, the latter as non-cash consideration for the purchases. Boyle signed Asset Purchase Agreements and promissory notes on behalf of 1184108 and Dreamcore and Malone signed an Asset Purchase Agreement and promissory note on behalf of Saxby Gale.

30. In executing these and related documents, the Nominee Shareholders and the shareholders or representatives of the Nominee Companies were acting at the invitation of Boyle or as an accommodation to him.
31. In respect of each reporting issuer, by virtue of Boyle's direction of the transactions, his use of nominees and accommodation parties, and the participation of Boyle, Melnick and Malone, the dispositions by the Nominee Shareholders were distributions, in that they were trades from a combination of persons who held a sufficient number of securities of the reporting issuer to affect materially the control of that issuer.
32. In respect of Complex, in aggregate the Nominee Shareholders held 35.3% of the securities. In respect of GoldMint, in aggregate the Nominee Shareholders held 16% of the securities. In respect of Nucanolan, in aggregate the Nominee Shareholders held 39.6% of the securities. Upon completion of the three step process in respect of each reporting issuer, the Nominee Companies held a corresponding percentage of the securities.
33. The distributions of securities by the Nominee Shareholders to the Nominee Companies through the three step process was achieved using promissory notes as consideration; no cash consideration was paid.

#### **Timing of Three Step Process**

34. Complex was formed on October 19, 1995, and the Agreements of Purchase and Sale by which the "economic potential" of the securities was sold by the Nominee Shareholders to FMC were executed on October 19 and 20, 1995. The "equity of redemption" was transferred by the Nominee Shareholders to the Nominee Companies by Trust Conveyances which were executed on October 31, 1995. The Nominee Companies acquired the "economic potential" from FMC by virtue of Asset Purchase Agreements executed on November 8, 1995.
35. In respect of GoldMint and Nucanolan, the first step was undertaken prior to the formation of the reporting issuer, and securities of the predecessor companies were later replaced with securities of GoldMint and Nucanolan.

36. GoldMint was formed on June 11, 1996, and the Agreements of Purchase and Sale by which the “economic potential” of the securities was sold by the Nominee Shareholders to FMC were executed on or about May 15 and 17, 1996. The “equity of redemption” was transferred by the Nominee Shareholders by Trust Conveyances which were executed on or about July 9, 1996. The Nominee Companies acquired the “economic potential” from FMC by virtue of Asset Purchase Agreements executed on August 7 and 8, 1996.
37. Nucanolan was formed on April 18, 1997, and the Agreements of Purchase and Sale by which the “economic potential” of the securities was sold by the Nominee Shareholders to FMC were executed between February 5 and 10, 1997. The “equity of redemption” was transferred by the Nominee Shareholders to the Nominee Companies by Trust Conveyances which were executed between July 29 and August 14, 1997. The Nominee Companies acquired the “economic potential” from FMC by virtue of Asset Purchase Agreements executed between July 29 and November 18, 1997.

### **Manufacture of Debts to FMC**

38. The principal effect of the three step process was to manufacture debts to FMC, the Antiguan company.
39. In the Agreements of Purchase and Sale used to effect step one (the sale of the “economic potential” by the Nominee Shareholders) and the Asset Purchase Agreements used to effect step three (the purchase of the “economic potential” by the Nominee Companies), values were assigned to the “economic potential”. In the Agreements these values were described as “full fair market value” and “fair market value”.
40. These amounts were not “fair market values”. There were no developments, corporate or otherwise, to justify the moneys payable to FMC. Instead, the purpose and effect of these transactions was to manufacture debts owing by the Nominee Companies to FMC.
41. In respect of Complex, the “economic potential” was sold by four Nominee Shareholders to FMC for an aggregate of \$337,500.20. The same “economic potential” was then purchased from FMC by four Nominee Companies (including Saxby Gale) for an

aggregate of \$1,755,001.04. This represented an increase of 420% over the price at which the Nominee Shareholders had sold the “economic potential” just twenty days earlier.

42. In respect of GoldMint, the “economic potential” was sold by two Nominee Shareholders to FMC for an aggregate of approximately \$100,000.00. The same “economic potential” was then purchased from FMC by two Nominee Companies (including 1184108) for an aggregate of approximately \$2,200,000.00. This represented an increase of 2,100% over the price at which the Nominee Shareholders had sold the “economic potential” fewer than three months earlier.
43. In respect of Nucanolan, the “economic potential” was sold by three Nominee Shareholders to FMC for an aggregate of approximately \$107,000.00. The same “economic potential” was then purchased from FMC by three Nominee Companies (including Dreamcore) for an aggregate of approximately \$2,237,575.00. This represented an increase of 1,991% over the price at which the Nominee Shareholders had sold the “economic potential” between five and nine months earlier.
44. On the basis of these manufactured debts, funds generated from the sale of the Complex, GoldMint and Nucanolan securities to members of the public were directed to FMC.

#### **Distributions to Broker Dealers**

45. Upon the completion of the three step process, the securities had been distributed to the Nominee Companies. Thereafter, Boyle prepared Option Agreements which he had executed by shareholders or representatives of the Nominee Companies, who were acting at Boyle’s invitation or as an accommodation to him. Boyle signed Option Agreements on behalf of 1184108 and Dreamcore. On behalf of Saxby Gale, Malone signed an Option Agreement pursuant to which 1.2 million Complex securities were sold to a Broker Dealer. Malone then authorized Boyle to pay FMC the proceeds received by Saxby Gale from the Broker Dealer.
46. To facilitate the sale of the securities to the Broker Dealers on behalf of the Nominee Companies, Boyle provided legal opinions in which he stated that the securities were not

subject to a statutory hold period or other resale restriction and that sale of the securities did not constitute a “distribution” as defined in section 1(1) of the Act.

47. These opinions were false. By virtue of Boyle’s direction of the transactions, his use of nominees and accommodation parties, and the participation of Boyle, Melnick and Malone, the dispositions by the Nominee Companies were distributions, in that they were trades from a combination of persons or companies holding a sufficient number of the securities of the reporting issuer to affect materially the control of that issuer.
48. The delivery of these opinions by Boyle was part of a series of transactions designed to circumvent the provisions of the Act governing the sale of securities from a control block, with a view to creating freely tradeable shares.
49. The Broker Dealers exercised their rights under the Option Agreements and acquired securities of the reporting issuers Complex, GoldMint and Nucanolan. The Broker Dealers sold the securities to members of the public.

#### **Transfer of Funds to Boyle, Melnick and Gobitan**

50. Most of the proceeds of the sales of Complex, GoldMint and Nucanolan securities to the Broker Dealers were paid to Boyle’s law firm in trust. Boyle then transferred funds to FMC’s counsel in trust for FMC, in purported repayment of the manufactured debts. Some of the funds transferred to FMC were in turn paid out to Boyle personally and to Melnick personally. Boyle transferred additional funds he received from the Broker Dealers to Melnick and Gobitan. Melnick and Gobitan also received funds directly from the Broker Dealers.
51. Through this series of payments, Boyle received approximately \$1.83 million and Melnick and Gobitan received approximately \$1.47 million. The last payout of these proceeds was in 2002.
52. In April, 1996, Malone received cash from Boyle in the amount of \$2,000.00 and in October, 1997, Malone received a cheque from FMC in the amount of \$4,500.00.

**Distributions Outside of the Three Step Process**

53. A number of GoldMint and Nucanolan securities were sold to the Broker Dealers outside of the three step process described above.
54. Gobitan sold 1.1 million GoldMint securities, and Melnick sold 560,000 GoldMint securities to two Broker Dealers for which Gobitan and Melnick received funds. 1081124 Ontario Limited (“1081124”) a company incorporated by Boyle, sold 500,000 GoldMint securities to a Broker Dealer for which 1081124 received funds. Goldbrook Explorations Inc. (“Goldbrook”), a company listed on the Alberta Stock Exchange, sold approximately 1.586 million GoldMint securities to two Broker Dealers for which Goldbrook received funds.
55. A nominee or accommodation party of Boyle’s sold 1.4 million Nucanolan shares and 1,489,550 Nucanolan warrants to Shovelrunner Resources Limited (“Shovelrunner”), a company incorporated by Boyle on February 22, 1996. The sole officer, director and shareholder of Shovelrunner was also a nominee or accommodation party of Boyle’s. Boyle prepared Option Agreements which he had executed by Shovelrunner’s shareholder pursuant to which 2.4 million Nucanolan securities were sold to a Broker Dealer.

**Other Holdings in Complex, GoldMint and Nucanolan**

56. In addition to the Complex, GoldMint and Nucanolan distributions as described above, there were other holdings in the reporting issuers, consisting primarily of those set out below.

**(a) Complex**

57. In the course of the Complex distribution to the Nominee Shareholders, 4 million Complex securities were issued to Ursa Major Minerals Inc. (“Ursa”), a private Ontario company which was wholly owned by Ursa Major International Inc., a Barbados corporation. Boyle was a director of Ursa from August, 2000 to September, 2001 and a director of Ursa Major International Inc. from May, 1996 to August, 2001. The 4 million Complex securities were cancelled in May, 1998 via a direction signed by Boyle.

58. In the course of the Complex distribution to the Nominee Shareholders, an aggregate of 7,200,016 Complex securities were issued to three individuals. In 2000, these securities were transferred to a number of persons and companies, including Gobitan.

**(b) GoldMint**

59. In the course of the GoldMint distribution to the Nominee Shareholders, an aggregate of 8.4 million GoldMint securities were issued to two individuals, subject to escrow agreements pursuant to which Boyle was the escrow agent. In 1998, 141,000 GoldMint securities were transferred to Melnick, and 195,000 GoldMint securities were transferred to 1184108. The remainder were re-registered in 1999.

**(c) Nucanolan**

60. In the course of the Nucanolan distribution to the Nominee Shareholders, 4.5 million Nucanolan shares and 4.5 million Nucanolan warrants were issued to Complex. The warrants were not exercised. The shares were disposed of in a private sale in December, 2000.

61. After the Nucanolan distribution to the Nominee Shareholders, in April, 1997, 4 million Nucanolan shares and 4 million Nucanolan warrants were issued to Welkin via Tupper. The shares were subject to an escrow agreement pursuant to which Boyle was the escrow agent. The warrants were not exercised. In November, 2000, on behalf of Welkin, Malone sold 4 million Nucanolan shares to Champion Natural. As consideration, Malone received 240,000 shares of Champion Natural. The Nucanolan shares were sold privately by Champion Natural in December, 2000.

**Unregistered Trading**

62. In carrying out the conduct described herein, each of Boyle, Melnick and Malone traded in securities without registration contrary to section 25 of the Act, in circumstances in which exemptions to the requirement for registration were unavailable, or where reliance on such exemptions constituted abuse of the exemptions contrary to the purpose and objects of the Act.

**Unlawful Distributions**

63. In carrying out the conduct described herein, each of Boyle, Melnick and Malone engaged in, authorized or facilitated distributions of securities without filing a prospectus and obtaining a receipt therefor contrary to section 53 of the Act, in circumstances in which prospectus exemptions were unavailable, or where reliance on such exemptions constituted abuse of the exemptions contrary to the purpose and objects of the Act.

**Failure to File Early Warning Reports**

64. The unlawful distributions of securities of each of Complex, GoldMint and Nucanolan resulted in the respondents having the power to exercise control or direction over more than 10% of the outstanding securities. As such, section 101 of the Act required the issuance and filing of news releases and reports in the prescribed form. No such releases were issued, nor were releases and reports filed.

**Conduct Contrary to the Public Interest**

65. In addition to breaching Ontario securities law, the respondents' course of conduct compromised the integrity of Ontario's capital markets, was abusive of Ontario's capital markets and was contrary to the public interest.

**DATED AT TORONTO** this 5<sup>th</sup> day of August, 2005