

ALBERTA SECURITIES COMMISSION

Citation: Re Jawhari, 2017 ABASC 51

Docket: ENF-010677

Date: 20170322

**SETTLEMENT AGREEMENT
AND UNDERTAKING**

KHALID WALID JAWHARI

Agreed Facts

Introduction

1. Staff of the Alberta Securities Commission (**Staff** and **Commission**, respectively) conducted an investigation into the trading of shares of Artek Exploration Ltd. (**Artek**) ahead of a public announcement of a takeover offer for the company by Kelt Exploration Ltd. (**Kelt**).
2. The investigation confirmed and Khalid Walid Jawhari (**Jawhari**) admits that he breached those sections of the *Securities Act*, RSA 2000, c S-4, as amended (**Act**), referred to in this Settlement Agreement and Undertaking (**Agreement**), and that he acted contrary to the public interest.
3. Solely for securities regulatory purposes in Alberta, and elsewhere in Canada, and as the basis for the settlement and undertakings referred to in paragraph 22, Jawhari agrees to the facts and consequences set out in this Agreement.
4. Terms used in this Agreement have the same meaning as provided in the Alberta securities laws, a defined term in the *Act*.

Parties

5. Jawhari is an Edmonton, Alberta resident. He is a long-time friend of Aouad Choufi (**Choufi**), an exploitation engineer employed in Calgary by Kelt during all times material to this Agreement.
6. Kelt is a publically traded oil and gas producing company, whose shares are listed for trading on the Toronto Stock Exchange (**TSX**). Kelt's head office is in Calgary.
7. Artek, as of February 2015, was a publically traded oil and gas producing company with shares listed for trading on the TSX. Artek's head office was in Calgary.
8. On April 16, 2015, Kelt completed the acquisition of all of the issued and outstanding common shares of Artek, and Artek was delisted from the TSX on April 21, 2015.

Circumstances

9. On Monday, February 23, 2015, at 7 a.m. EST (**February 23 Announcement**), Artek/Kelt announced that Artek had entered into an arrangement with Kelt pursuant to which Kelt had agreed to acquire all of the issued and outstanding common shares of Artek (**Acquisition**).
10. Under the terms of the Acquisition, Artek shareholders were to receive 0.34 common shares of Kelt for each Artek share held. Based on an average trading price of \$8.10 per Kelt share, this represented a value per Artek share of \$2.76. The \$2.76 price per Artek share was a 61% premium to its then average trading price.
11. Days prior to the February 23 Announcement, Choufi and Jawhari had a telephone conversation regarding Artek. In that conversation, Choufi told Jawhari that: Kelt was looking at Artek, Artek was a good buy, and he (Choufi) was purchasing shares of Artek (**Facts**).
12. Jawhari knew at the time of this conversation that Choufi was employed by Kelt. Choufi's employment, and his knowledge of undisclosed Facts, placed him in a special relationship with Artek. Jawhari, having learned of the Facts from a person in a special relationship with Artek, was also in a special relationship with Artek pursuant to the *Act*.
13. Jawhari admits that the Facts communicated to him by Choufi with respect to the potential Acquisition were material.
14. On February 20, 2015, Jawhari's wholly-owned company, 1601590 Alberta Ltd. (**1601590**) purchased 41,500 shares of Artek at a cost of approximately \$70,000. 1601590 sold those shares days later, on February 23 and 25, 2015, for a profit after commissions of \$39,868.

Admitted Breaches of Alberta securities laws (Admitted Breaches)

15. Based on the Agreed Facts, Jawhari admits that he breached s. 147(2) of the *Act* by purchasing shares of Artek, while in a special relationship with it, and with knowledge of a material fact or facts with respect to Artek that had not been generally disclosed, and that he acted contrary to the public interest.

Circumstances Relevant to Settlement

16. Jawhari has not been previously sanctioned for any securities offences or breaches in Canada, and has no criminal convictions.
17. Jawhari cooperated with Staff during the investigation.
18. At or before the time of the purchase of Artek shares by 1601590, Jawhari states that he was following market analysis and online information where the possibility of a takeover of Artek was discussed.

19. Jawhari states that he did not know he was in a special relationship with Artek at the time of his trading in Artek shares through 1601590.
20. On February 10, 2016, Choufi entered into a Settlement Agreement with Staff with respect to his activities relating to trading and the Acquisition (*Re Choufi*, 2016 ABASC 41). In that settlement, Choufi paid to the Commission \$76,290 and agreed to a 6 year cease trade order.
21. This Agreement has saved the Commission the time and expense associated with a contested hearing under the *Act*.

Settlement and Undertakings

22. Based on the Agreed Facts and Admitted Breaches, Jawhari agrees and undertakes to the Executive Director of the Commission to:
 - 22.1 have 1601590 pay to the Commission a monetary settlement of \$59,802, representing 1.5 times the profit from the trading in the Artek shares, plus \$7,500 for costs of the investigation; and
 - 22.2 cease trading in securities for a period of 3 years, except that he may trade in or purchase securities in a single account, either in his own name or in the name of 1601590, through a registrant who has been given a copy of this Agreement.

Administration

23. Jawhari acknowledges that he received independent legal advice and has voluntarily made the admissions and undertakings in this Agreement.
24. Jawhari acknowledges and agrees that the Commission may enforce this Agreement in the Court of Queen's Bench or in any other court of competent jurisdiction.
25. Jawhari understands and acknowledges that this Agreement may form the basis for securities-related orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow for provisions of a settlement agreement made in this matter to be given parallel effect in those other jurisdictions automatically, without further notice to him.
26. Jawhari waives any right existing under the *Act*, or otherwise, to a hearing, review, judicial review or appeal of this matter.
27. Execution and fulfillment of the terms of this Agreement by Jawhari resolves all issues involving Jawhari relating to the conduct described above, and Staff will take no further steps against him arising from these facts.

28. This Agreement may be executed in counterpart.

Signed by KHALID WALID JAWHARI)
at Calgary, Alberta this 9th day of)
March 2017, in the presence of:)

Brenna Bote)
WITNESS NAME)

"Original Signed By")
SIGNATURE)

"Original Signed By")
KHALID WALID JAWHARI)

) ALBERTA SECURITIES COMMISSION)

Calgary, Alberta, 22nd March 2017)

) "Original Signed By")
) David C. Linder, Q.C.)
) Executive Director)