

ALBERTA SECURITIES COMMISSION

Citation: Re Moore, 2018 ABASC 154

Docket: ENF-009991

Date: 20180927

SETTLEMENT AGREEMENT AND UNDERTAKING

Richard Kenneth Moore

Agreed Facts

Introduction

1. Staff of the Alberta Securities Commission (**Staff** and **Commission**, respectively) conducted an investigation into the activities of Richard Kenneth Moore (**Moore**) with respect to the securities of Kilimanjaro Capital Ltd. (**Kilimanjaro**), to determine if Alberta securities laws had been breached.
2. The investigation confirmed and Moore admits that he breached those sections of the *Alberta 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, and as the basis for the settlement and undertakings referred to in paragraph 24, Moore agrees to the facts and consequences set out in this Agreement.
4. Unless otherwise noted, terms used in this Agreement have the same meaning as provided in the *Act*.

Parties

5. Kilimanjaro is a Belizean company. At times material to this matter, it maintained an office address and management presence in Calgary, Alberta.
6. Moore is a resident of Calgary, Alberta. He has worked as a registered representative in the securities industry since 1982. At times material to this matter, Moore was engaged with Macquarie Private Wealth Inc. until its acquisition by Richardson GMP Limited (**RGMP**) in September 2013. Moore was engaged with RGMP until, for reasons unrelated to this matter, he retired effective November 30, 2015, to pursue other business endeavours. He is no longer a registrant and states he has no intention of returning to the industry.

7. One of Moore's longstanding clients was John Charles Zang (**Zang**), who maintained a significant portfolio with Moore. Zang, a Calgary lawyer, is a respondent along with Moore in a Notice of Hearing issued by Staff.

Circumstances

8. In the spring of 2013, Zang arranged for the deposit of 300,000 shares of Kilimanjaro with Moore's firm with the stated intention of trading them. Challenges were encountered in facilitating the clearing of Zang's shares for trading, as Kilimanjaro was then not listed on any North American exchange. Moore consulted representatives of his firm, including RGMP's head of trading, to investigate alternatives to trade the shares of Kilimanjaro.
9. Zang put Moore into contact with another respondent to the above Notice of Hearing, Ashmit S. Patel (**Patel**), a representative of Kilimanjaro. Patel consulted extensively with Moore and RGMP via telephone and email in an effort to have Kilimanjaro shares quoted for trading on the US over-the-counter markets.
10. Due to a 100 for 1 forward stock split that occurred on or around March 3, 2014, Zang's personal shareholdings in his account with Moore increased to 30,000,000. The 100 for 1 share split increased the number of outstanding Kilimanjaro shares to 500,000,000.
11. On March 25, 2014, at Zang's direction, Moore traded 300,000 of Zang's Kilimanjaro shares at a price of \$0.02 per share. A further 140,000 of Zang's Kilimanjaro shares were traded by Moore on March 26, 2014, at \$0.023 per share. The net dollar value from the sale of these Kilimanjaro shares was approximately \$9,713.
12. On approximately March 26, 2014, Zang advised Moore that additional Kilimanjaro shares would be placed with RGMP to be deposited into the account of Zang's wholly-owned company, 1649568 Alberta Ltd. (**164**). Zang requested of Moore that Patel be given trading authority over the 164 account. Both Zang and Patel represented to Moore or to RGMP that each was not a senior officer, director or insider of Kilimanjaro, and that each did not own a controlling interest in the corporation.
13. On approximately March 27, 2014, an additional 202,183,700 shares of Kilimanjaro in Zang's name or in 164's name, were deposited with Moore at RGMP.
14. Between approximately March 27 and April 4, 2014, a member of Moore's team at RGMP, on Patel's direction, traded 1,565,680 Kilimanjaro shares in 164's account at prices ranging from \$0.015-\$0.028 per share. The net dollar value from the sale of these Kilimanjaro shares was \$27,861.52.
15. On April 3, 2014, the Commission cease traded Kilimanjaro's shares (**Order**). RGMP utilized an outside service provider at the time to notify it with respect to items such as cease trades. In this instance, no notice of the Order came to the attention of Moore at the time, and approximately 15,000 of the shares referenced above were traded after the Order was issued.

16. On April 17, 2014, Zang requested the balance of the shares in his name and those in the name of 164 be sent to Patel in the US. Zang subsequently changed that request and made arrangements through Moore and his assistant to personally pick up the shares at the RGMP offices.

Admitted Breaches of Alberta securities laws (Admitted Breaches)

17. Based on the Agreed Facts, Moore admits that he breached section 93.1 of the *Act* by failing to take the steps necessary to make himself aware of, and comply with, the Order.
18. Moore further admits that he acted contrary to the public interest by failing in his role as gatekeeper in the capital markets to make inquiries into suspicious and unusual circumstances surrounding the trading of Kilimanjaro shares in the Zang and 164 accounts by Zang and Patel.

Circumstances Relevant to Settlement

19. Moore has not been previously sanctioned by the Commission.
20. Moore cooperated in the investigation of these allegations.
21. In making the above admissions, Moore has saved the Commission the time and expense associated with a contested hearing against him under the *Act*.
22. Moore was not a knowing participant in any scheme designed to manipulate the public markets, and he did not obtain a material monetary benefit as a result of his actions.
23. It was not until the issuance of the Notice of Hearing on October 11, 2017, and the receipt of Staff's disclosure, that Moore became aware of the full extent of the alleged market manipulation scheme. The volume of Kilimanjaro shares traded through Moore and his team represented a small portion of the total share activity undertaken by Zang, 164 and Patel.

Settlement and Undertakings

24. Based on the Agreed Facts and Admitted Breaches, Moore agrees and undertakes to the Executive Director of the Commission to:
 - 24.1 pay to the Commission a monetary settlement of \$15,000, inclusive of costs; and
 - 24.2 be prohibited from becoming or acting as a registrant for a period of 5 years.

Administration

25. Moore acknowledges that he has had the opportunity to seek, and has obtained, independent legal advice, that his admissions are taken voluntarily and that he has freely made the admissions set forth in this Agreement. Moore acknowledges he has neither received nor relied on any legal advice from Staff in regards to these admissions.

26. Moore further 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.
27. Moore waives any right existing under the *Act*, or otherwise, to a hearing, review, judicial review or appeal of this matter.
28. Moore acknowledges that this Agreement may be referred to in any other proceedings under the *Act*, and in securities regulatory proceedings in other jurisdictions.
29. Execution and fulfillment of the terms of this Agreement by Moore resolves all issues involving Moore relating to the conduct described above, and Staff will take no further steps against him arising from these facts.
30. This Agreement may be executed in counterpart.

Signed by RICHARD KENNETH)
MOORE at Calgary, Alberta this 26 day)
of September 2018, in the presence of:)

Edward W. Halt)
WITNESS NAME)

"original signed by")
SIGNATURE)

"original signed by")
RICHARD KENNETH MOORE)

) ALBERTA SECURITIES COMMISSION)

Calgary, Alberta, 27 September 2018)

) "original signed by")
) David C. Linder, Q.C.)
) Executive Director)