



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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

**AND**

**IN THE MATTER OF  
HUBBAY MINERALS INC.**

**AND**

**IN THE MATTER OF  
A DECISION OF THE TORONTO STOCK EXCHANGE**

**ORDER  
(Sections 21.7 and 8(3) of the Act)**

**WHEREAS** on November 21, 2008, HudBay Minerals Inc. (“HudBay”) and Lundin Mining Corporation (“Lundin”) announced in a joint press release that they had entered into an arrangement agreement pursuant to which HudBay would acquire all of the outstanding common shares of Lundin on the basis of 0.3919 HudBay common shares for each Lundin common share (the “Transaction”);

**AND WHEREAS** by letter dated November 26, 2008, HudBay gave notice of the Transaction to the Toronto Stock Exchange (the “TSX”) pursuant to subsection 602(a) of the TSX Company Manual and requested the approval by the TSX of the listing of an aggregate of 157,596,192 additional common shares of HudBay (the “Additional Common Shares”) in connection with the Transaction;

**AND WHEREAS** pursuant to section 603 of the TSX Company Manual, the TSX has the discretion to impose conditions on a transaction, such as by requiring shareholder approval;

**AND WHEREAS** the TSX received written complaints from Jaguar Financial Inc. (“Jaguar”) and other shareholders of HudBay including a request that the TSX exercise its discretion under section 603 of the TSX Company Manual to require that HudBay obtain shareholder approval of the Transaction;

**AND WHEREAS** on December 10, 2008, the TSX decided that it would not require that the Transaction be approved by the shareholders of HudBay as a condition to the listing of the Additional Common Shares (the “TSX Decision”);

**AND WHEREAS** on January 6, 2009, Jaguar brought an application, being the Fresh as Amended Request for Hearing and Review (the “Application”), to the Ontario Securities Commission (the “Commission”) pursuant to sections 8(3) and 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) for a hearing and review of the TSX Decision;

**AND WHEREAS** by order made January 12, 2009, Lundin and the TSX were granted full intervenor status in this matter;

**AND WHEREAS** a hearing was held on January 19 and 21, 2009, to consider the Application;

**AND UPON HAVING CONSIDERED** the evidence filed and the written and oral submissions made by Jaguar, HudBay, Lundin, the TSX and Staff of the Commission;

**IT IS ORDERED THAT:**

1. pursuant to subsection 8(3) and section 21.7 of the Act, the TSX Decision is set aside;
2. pursuant to subsection 8(3) of the Act and section 603 of the TSX Company Manual, HudBay shareholder approval of the Transaction is required as a condition to the listing of the Additional Common Shares; and

3. pursuant to subsection 8(3) of the Act, HudBay is prohibited from issuing any securities in connection with the Transaction unless it shall have first obtained the approval of the Transaction by a simple majority of the votes cast by HudBay shareholders entitled to vote on the Transaction at a duly convened special meeting of its shareholders.

**DATED** at Toronto this 23<sup>rd</sup> day of January, 2009.

*“James E. A. Turner”*

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James E. A. Turner

*“Suresh Thakrar”*

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Suresh Thakrar

*“Paulette L. Kennedy”*

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Paulette L. Kennedy