

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

AND

**ANDREW CURRAH, COLIN HALANEN,
JOSEPH DAMM, NICHOLAS WEIR,
PENNY CURRAH AND WARREN HAWKINS**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated October 27, 2005, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make an order approving the settlement agreement entered into between Staff of the Commission and the respondent Joseph Damm (“Damm”).

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with Damm (also referred to hereafter as the “Respondent”) in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part III herein and consents to the making of an Order in the form attached as Schedule “A” on the basis of the facts set out in Part III herein.

3. The terms of this settlement agreement, including the attached Schedule “A” (collectively, the “Settlement Agreement”) will be released to the public only if and when the Settlement Agreement is approved by the Commission.

III AGREED FACTS

(i) Background

5. Findore Minerals Inc. (“Findore”) is an Ontario junior resource company that was listed on the Canadian Dealing Network (“CDN”) on October 5, 1987. At all material times, Findore’s common shares traded over-the-counter and were quoted on the CDN. Although Findore changed its name to Cantex Energy Inc. on December 17, 1997, the company will be referred to herein as Findore.

6. The respondent Damm is 68 years old. He has been a registered representative for 32 years. He has not previously been subject to disciplinary proceedings before the Commission.

7. At all material times, Damm was employed as a registered representative at Research Capital Corporation (“Research Capital”). He shared a registered representative code with the respondent Warren Hawkins (“Hawkins”).

8. Research Capital was approved by the CDN as a market maker for Findore shares. Damm and Hawkins acted on Research Capital’s behalf by posting bids and offers on the CDN as market makers for Findore on behalf of Research Capital’s clients.

9. Damm and Hawkins did not use a Research Capital inventory account to meet the trading obligations that arose from posting bids and offers in respect of Findore’s shares.

(ii) Trading in Findore shares by certain account holders at Research Capital

10. The respondents Andrew Currah, Nicholas Weir (“Weir”) and Colin Halanen (“Halanen”) were promoters of Findore’s shares.

11. Andrew Currah held the following positions with Findore: President of Findore in the period between November 1994 and July 1997; secretary of Findore from September 1997 to December 1997; and director of Findore from November 1994 to December 1997. After December 1997, Andrew Currah remained closely involved in the affairs of Findore and worked from the same business premises as Findore.

12. Between June 1996 and September 1997, Halanen was a director and the treasurer of Findore. After September 1997, Halanen continued to work closely with, and in the same offices as, Andrew Currah and Findore.

13. Between December 1997 and September 1998, Weir was the secretary-treasurer of Findore. Weir worked closely with, and in the same offices as, Andrew Currah, Halanen and Findore.

14. Damm (together with his partner Hawkins) was the registered representative for 7 brokerage accounts for Andrew Currah, Weir, Halanen and companies for whose brokerage accounts those individuals exclusively directed trading. Andrew Currah, Weir and Halanen (both individually and through their respective corporate trading), are collectively referred to herein as the "Currah Group".

15. In the period between July 1997 and December 1998, the Currah Group deposited share certificates representing at least 988,883 Findore common shares into accounts at Research Capital.

16. In the period between July 1997 and December 1998, the Currah Group made 2000 trades in Findore shares in their accounts at Research Capital, using Damm and/or Hawkins as their registered representatives.

17. Damm was aware of the level of trading in Findore shares by the Currah Group, and of their close business relationship to Findore. Damm was further aware that the deposits of treasury shares into Currah Group accounts supported the Currah Group's trading activities. Damm was also aware that the Currah Group was allowing debit balances to accumulate in cash accounts at Research Capital, and that Findore's shares were not marginable.

18. In addition, Damm was personally involved as registered representative for at least 7 cross trades in Findore shares between accounts of the Currah Group held at Research Capital (the "Cross Trades"). Of those Cross Trades, 3 created an uptick in the market price of Findore's common shares. In addition, Damm was involved as registered representative for at least 1 purchase of Findore common shares by a Currah Group account from an outside broker, which resulted in an uptick in the price for Findore shares. These trades, all of which were reported on the CDN, contributed to a misleading appearance as to the trading volume and/or market price of Findore shares.

(ii) Market Making Activities

19. On a daily basis, the Currah Group provided trading instructions which formed the primary basis for Damm and Hawkins' market making activities, including setting the bid and offer prices for Findore's shares. Occasionally, the bid and/or offer prices would come from another Research Capital client.

20. Shares held in brokerage accounts of the Currah Group were used to meet the trading obligations that arose from posting bids and offers in respect of Findore's shares. Damm did not enter into loan agreements with the Currah Group in order to obtain access to their Findore shares for market making purposes, nor did he insist that members of the Currah Group surrender their trading authority in respect of those shares.

21. In his role as a market maker on behalf of Research Capital, Damm had an obligation to maintain reasonable liquidity for Findore's shares by making firm bids or offers for Findore's shares, as necessary to operate an orderly market for Findore's shares. As a market maker, Damm only had an obligation to fill orders for one board lot of Findore's shares at the bid or offer price. In addition, Damm was obliged to be fully independent from the issuer and promoters.

22. Damm was subject to the Rules of the Canadian Dealing Network, which specified that:

- (a) accessing the CDN for the purpose of market making in a CDN security was restricted to market makers that had been approved by the Board of the CDN;
- (b) disclosure was required by market makers of any direct or indirect association, dealings or arrangements with any promoter, insider, associate or affiliate of the issuer of the CDN security or with the issuer itself;
- (c) approved market makers shall not use or knowingly participate in the use of any manipulative or deceptive methods of trading in connection with the purchase or sale of a CDN security that creates or may create a false or misleading appearance of trading activity or an artificial price for a CDN security.

23. By surrendering his market making function to the Currah Group and other clients and participating in the Currah Group's manipulative trading activity, Damm breached the foregoing CDN Rules.

(iv) Market Price of Findore's Shares

24. In June 1997, prior to the commencement of the respondents' trading activity described above, the common shares of Findore had been trading in the range of \$0.10 to \$0.14 per share. Trading in Findore's shares became very active, as reported on the CDN, in the latter part of July 1997 and by September 26, 1997, the share price reached \$1.92. The stock peaked on April 3, 1998 at a high of \$2.30 per share. The reported Findore share price stayed above \$1.00 per share through to the fall of 1998, before declining markedly to its June 1997 levels in 1999. The trading described above contributed to price fluctuations for Findore shares.

25. In the period between July 1997 and December 1998, the Currah Group accounted for more than 30 percent of the market activity for Findore's shares.

IV THE RESPONDENT'S POSITION

26. While not denying his own misconduct, the Respondent states that he did not receive any negative comment from the back-office, credit or compliance departments at Research Capital pertaining to the facts described in Part III above. The Respondent paid fifty percent of his commissions to Research Capital to compensate Research Capital for the use of its back-office, credit and compliance facilities. The Respondent does not accept responsibility for any lack of vigilance on the part of Research Capital.

27. The Respondent has never been the subject of any prior disciplinary proceeding.

28. The Respondent states that he had health and personal problems which, together with his age, made him less attentive to the trading in issue and contributed to his misconduct.

V CONDUCT CONTRARY TO THE PUBLIC INTEREST

29. By making the market making facilities of Research Capital available to the Currah Group in the manner described in paragraphs 19 to 23, and in failing to ensure that the market making activity that he was conducting was independent of the issuer and promoter, Damm acted contrary to the public interest.

30. Damm ought to have known that the trades described in paragraphs 16 and 18, combined with the role that the Currah Group played in Damm's market making activities, would

or may create a misleading appearance as to market activity for Findore shares or as to the price of those shares.

31. Damm benefited financially from the trading by the Currah Group, by personally receiving commissions of at least \$100,000.00 (net of any amount that was paid to Research Capital by Damm).

32. Damm's conduct was contrary to the public interest.

VI TERMS OF SETTLEMENT

33. Damm agrees to the following terms of settlement, pursuant to s. 127(1) of the Act:

- (a) Damm shall surrender his registration with the Commission immediately upon approval of this Settlement Agreement;
- (b) Damm shall not reapply to the Commission for registration, in any capacity, at any time in the future;
- (c) Damm shall pay costs to the Commission of its investigation, pursuant to s. 127.1 of the Act, in the amount of \$15,000.00
- (d) Damm will cooperate with Staff in its investigation of trading in Findore shares, including testifying as a witness for Staff at any proceedings commenced by Staff before the Commission, the Ontario Court of Justice or the Ontario Superior Court.

VII STAFF COMMITMENT

25. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any conduct or alleged conduct of Damm in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 29 below.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

26. Approval of this Settlement Agreement shall be sought at a hearing of the Commission on a date agreed to by counsel for Staff and Damm.

27. Staff and Damm may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and Damm also agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting Damm in this matter, and Damm agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

28. Staff and Damm agree that if this Settlement Agreement is approved by the Commission, neither Staff nor Damm will make any public statement inconsistent with this Settlement Agreement.

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

30. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an Order in the form attached as Schedule "A" is not made by the Commission, each of Staff and Damm will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected by this Settlement Agreement or the settlement negotiations.

31. Whether or not this Settlement Agreement is approved by the Commission, Damm agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

IX. DISCLOSURE OF AGREEMENT

32. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both Damm and Staff or as may be required by law.

33. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

X. EXECUTION OF SETTLEMENT AGREEMENT

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

35. A facsimile copy of any signature shall be effective as an original signature.

Dated this 27th day of October, 2005.

“M. Whitney”
Witness

”Joseph Damm”
Joseph Damm

”Michael Watson”
Staff of the Ontario Securities Commission
Per: “Michael Watson”
Director, Enforcement Branch

Dated this day 27th of October 2005.

Schedule A

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

AND

**ANDREW CURRAH, COLIN HALANEN,
JOSEPH DAMM, NICHOLAS WEIR,
PENNY CURRAH AND WARREN HAWKINS**

ORDER

WHEREAS on July 23, 2004, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the “Act”) in respect of trading in the shares of Findore Minerals Inc.;

AND WHEREAS Joseph Damm (“Damm”) entered into a settlement agreement dated October 14, 2005 (the “Settlement Agreement”) in relation to the matters set out in the Amended Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated October 28, 2005 setting out that it proposed to consider the Settlement Agreement;

AND WHEREAS, in addition to the terms of the order below, Damm has undertaken never to re-apply for registration or recognition of any kind under Ontario securities law;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from counsel for Damm 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

1. The Settlement Agreement attached to this Order is approved;
2. Damm’s registration under Ontario securities law is hereby terminated;

3. Damm shall pay the sum of \$15,000.00 towards the costs of Staff's investigation into the matters set out in the Statement of Allegations.

Dated at Toronto, Ontario this _____ day of October, 2005
