



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 MEGA-C POWER CORPORATION, RENE PARDO,
GARY USLING, LEWIS TAYLOR SR., LEWIS TAYLOR JR., JARED TAYLOR,
COLIN TAYLOR AND 1248136 ONTARIO LIMITED**

**SETTLEMENT AGREEMENT BETWEEN STAFF OF THE
ONTARIO SECURITIES COMMISSION AND RENE PARDO**

I. INTRODUCTION

1. By Notice of Hearing dated November 16, 2005 (the “Notice of Hearing”) with a Statement of Allegations filed by Staff of the Commission (“Staff”) on the same date, as amended by Amended Notice of Hearing dated February 6, 2007, the Ontario Securities Commission (“the Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to s. 127 and s. 127.1(1) and (2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (“the Act”), it is in the public interest to, among other things, make an Order:

- (a) under clause 2 of s. 127(1) of the Act, that trading in securities by the Respondent, Rene Pardo (“Pardo”), cease permanently or for such other period as specified by the Commission;

- (b) under clause 3 of s. 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to Pardo permanently or for such a period as the Commission may order;
- (c) under clause 6 of s. 127(1) of the Act, that Pardo be reprimanded;
- (d) under clause 7 of s. 127(1) of the Act, that Pardo, if acting as a director or officers of any issuer resign one or more positions that he may hold as a director or officer of an issuer;
- (e) under clause 8 of s. 127(1) of the Act, that Pardo is prohibited from becoming or acting as director or officer of any issuer;
- (f) under clause 10 of s. 127(1) of the Act, that Pardo disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law;
- (g) under s. 127.1 of the Act, that Pardo pay the costs of Staff's investigation and the costs of, or related to, the proceeding that are incurred by or on behalf of the Commission; and
- (h) such further orders as the Commission considers appropriate.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff recommends settlement of the proceeding initiated in respect of the Respondent, Pardo, in accordance with the terms and conditions set out below. Pardo agrees to the settlement on the basis of the facts agreed to in Part IV and consents to the making of an Order in the form attached as Schedule "A" on the basis of those facts.

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

III. ACKNOWLEDGEMENT

4. For the purpose of this settlement only, Pardo agrees with the facts set out in Part IV as well as the Supplementary Statement of Facts attached to this Agreement and marked as Schedule “B”. Pardo expressly denies that this Settlement Agreement is intended to be an admission of civil liability by Pardo to any person or company and Pardo expressly denies any such admission of civil liability.

IV. STATEMENT OF FACTS

5. Staff acknowledges that Pardo was co-operative during the investigation of this matter and during the process of reaching settlement.

Background

6. Mega-C Power Corporation (“Mega-C”), formerly known as Net Capital Ventures Corporation, was incorporated in the State of Nevada on February 26, 2001. At all material times, Mega-C’s principal offices were located in Vaughan, Ontario. Mega-C purported to be in the business of developing and commercializing a hybrid capacitor/battery (the “Technology”).

7. Pardo was a founder of Mega-C and at all material times was the President, CEO and a director of the corporation. Pardo has never been registered in any capacity whatsoever with the Commission.

8. NetProfitEtc. Inc. (“NetProfit”) was controlled and operated by Pardo and the Respondent, Gary Usling. Pardo also held a number of holding companies which he owned and controlled, including 503124 Ontario Inc.

Unregistered Trading and Prohibited Representations

9. As of September 2003, Mega-C issued from treasury approximately 14.5 million shares, 12.3 million of which were issued to Pardo and/or NetProfit. Of those 12.3 million shares, Pardo

was directly involved in further transfers to in excess of approximately 1000 investors either on his own or in conjunction with other respondents.

10. Between August, 2001 and the Summer of 2003, Pardo along with others held demonstrations of the Technology.

11. In order to effect trades in Mega-C shares, Pardo (along with others) made representations that Mega-C shares were freely tradable and would be listed in the near future on a stock exchange, contrary to section 38(3) of the Act. Further, on occasion, Pardo (along with others) represented that Mega-C shares would be repurchased if the shareholder wanted their investment returned, contrary to section 38(1) of the Act.

12. Pardo states that he did not intend nor understand that the sale of shares was part of any loan program offered by Mega-C.

Illegal Distribution

13. At no time did Mega-C file a preliminary prospectus or prospectus with the Commission and obtain the appropriate receipts from the Director, as required by section 53 of the Act.

U.S. Bankruptcy Proceedings

14. On April 6, 2004, Mega-C was petitioned for relief under Chapter 11 of Title 11 of the U.S. Bankruptcy Code. On May 13, 2004, the U.S. Bankruptcy Court in Nevada entered an Order granting Mega-C relief under Chapter 11 of the Bankruptcy Code (In Re: Mega-C Power Corporation, Case Number BK-N-04-50962-GWZ).

15. Pardo has represented to Staff that he is not in a position to effect any meaningful restitution to Ontario shareholders and based on a statement provided by Pardo, Staff are satisfied that a costs order would not be collectable. Pardo, directly or indirectly, through any corporate entity, will not receive any financial consideration whatsoever from the reorganization or settlement of the Chapter 11 proceedings.

Acknowledgements

16. Pardo admits and acknowledges that his conduct described herein was contrary to the public interest.

17. Pardo admits and acknowledges that his conduct described herein contravened section 25 of the Act and that no exemptions were available to him.

18. Pardo admits and acknowledges that his conduct described herein contravened section 53 of the Act and that no exemptions were available to him.

19. Pardo admits and acknowledges that his conduct described herein contravened subsections 38(1) and 38(3) of the Act.

Respondent's Facts

20. For the purposes of this Statement of Agreed Facts, Staff do not dispute the following facts as Pardo's position. This admission by Staff in relation to Pardo does not bind Staff for the purpose of this proceeding against the remaining Respondents in this proceeding.

21. Pardo received informal legal advice which he understood to indicate that there was no legal impediment to the trading of shares of Mega-C in Ontario.

22. Pardo recognizes that he was not sufficiently diligent in the manner in which obtained the legal advice he obtained and the manner in which he interpreted that legal advice.

V. TERMS OF SETTLEMENT

23. Pardo agrees to settle this matter on the basis of the following terms of settlement:

(a) pursuant to clause 2 of subsection 127(1) of the Act, Pardo shall cease trading in securities for a period of two years from the date of an Order of the Commission approving this Settlement Agreement, subject to the following exceptions:

(i) Pardo shall be permitted to trade in securities through a registrant in registered retirement savings plans, registered retirement income funds or tax-free

savings accounts (as defined in the *Income Tax Act (Canada)* or locked-in retirement accounts in which he has sole legal and beneficial ownership and interest, provided that:

1. the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer, and

2. Pardo does not own legally or beneficially more than 1% of the outstanding securities of the class or series of the class in question;

(ii) Pardo shall be permitted to trade in the securities of Brainwave Research Corporation and Brainwave Products Inc. (the “Brainwave Entities”). In particular, he is permitted to sell his shares in those companies if and when either or both of them are acquired. He is also permitted to attend and participate in meetings and presentations, and perform all necessary functions ancillary to any sale or placement of securities in either of the Brainwave Entities; and

(iii) All of Pardo’s trading in securities of the Brainwave Entities shall be conducted in compliance with Ontario securities law, and with the advice and assistance of an Ontario law firm with the relevant expertise in the area of securities law and laws governing the distribution of securities;

(b) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law will not apply to Pardo for a period of two years from the date of an Order of the Commission approving this Settlement Agreement, except with respect to trading of the securities of the Brainwave Entities as described in paragraph 23(a) above;

(c) pursuant to clause 6 of subsection 127(1) of the Act, Pardo shall be reprimanded;

(d) pursuant to clause 7 of subsection 127(1) of the Act, Pardo shall resign as director or officer of any issuer on the date of an Order of the Commission approving this Settlement Agreement, except for 503124 Ontario Inc., the Brainwave Entities and Intelligent Creatures Inc. and its affiliates, on the condition that he provides a copy of the

Order approving this Settlement Agreement to the Board of Directors of these companies and to their legal counsel within 10 days of the Order approving this Settlement Agreement; and

(e) pursuant to clause 8 of subsection 127(1) of the Act, Pardo shall, except as set out in subparagraph (d) above, be prohibited from becoming or acting as director or officer of any issuer for a period of two years from the date of the Order approving this Settlement Agreement, except he will be permitted to be or act as a director and/or officer of 503124 Ontario Inc., the Brainwave Entities and Intelligent Creatures Inc. and its affiliates.

VI. STAFF COMMITMENT

24. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Pardo in relation to the facts set out in Part IV of this Settlement Agreement.

25. If this settlement is approved by the Commission and at any subsequent time Pardo fails to honour the terms of settlement contained in paragraph 23 of this Settlement Agreement, Staff reserve the right to bring proceedings against Pardo based on the facts set out in Part IV of this Settlement Agreement, and based on the breach of this Settlement Agreement.

VII. APPROVAL OF SETTLEMENT

26. Approval of this Settlement Agreement shall be sought at a hearing of the Commission (the "Settlement Hearing") scheduled for August 17, 2012 at 10:00 a.m.

27. Counsel for Staff and counsel for Pardo may refer to any part or all of this Settlement Agreement at the Settlement Hearing. Staff and Pardo agree that this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.

28. If this Settlement Agreement is approved by the Commission, Pardo agrees to waive his rights under the Act to a full hearing, judicial review or appeal of the matter.

29. Whether or not the Settlement Agreement is approved by the Commission, Pardo agrees that he will not, in any proceeding, refer to or rely on the Settlement Agreement, the settlement

discussions and negotiations, or the process of approval of this Settlement Agreement as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

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:

(a) this Settlement Agreement and its terms, including all discussions and negotiations between Staff and Pardo leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Pardo;

(b) Staff and Pardo shall 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 of Staff, as amended by the Amended Notice of Hearing, unaffected by this Settlement Agreement or the settlement discussion/negotiations; and

(c) the terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Pardo or as may be required by law.

31. Except as required above, this Settlement Agreement and its terms will be treated as confidential by Staff and Pardo 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 Staff and Pardo, or as may be required by law.

32. Any obligations of confidentiality attaching to this Settlement Agreement shall terminate upon approval of this settlement by the Commission.

33. Staff and Pardo agree that, if this Settlement Agreement is approved by the Commission, they will not make any public statement inconsistent with this Settlement Agreement.

VIII. 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 as effective as an original signature.

Dated at Toronto this “15th” day of August, 2012.

“Michael Meredith”
Witness

“Rene Pardo”
Rene Pardo

Dated at Toronto this “15th” day of August, 2012.

STAFF OF THE ONTARIO SECURITIES COMMISSION

“Tom Atkinson”
Tom Atkinson
Director of Enforcement

SCHEDULE “A”

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

- and -

**IN THE MATTER OF MEGA-C POWER CORPORATION, RENE PARDO,
GARY USLING, LEWIS TAYLOR SR., LEWIS TAYLOR JR., JARED TAYLOR,
COLIN TAYLOR AND 1248136 ONTARIO LIMITED**

ORDER

WHEREAS on November 16, 2005, the Commission issued a Notice of Hearing accompanied by Staff’s Statement of Allegations in relation to the Respondents and on February 6, 2007, the Commission issued an Amended Notice of Hearing pursuant to sections 127 and 127.1(1) and (2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”),

AND WHEREAS Rene Pardo entered into a settlement agreement dated August 15, 2012, (the “Settlement Agreement”) in which he agreed to a settlement of the proceeding commenced by the Notice of Hearing dated November 16, 2005, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement and Staff’s Statement of Allegations, and upon hearing submissions from counsel for Staff and the Respondent;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED THAT:

1. The Settlement Agreement between Rene Pardo and Staff of the Commission is approved;

2. Pursuant to clause 2 of subsection 127(1) of the Act, Pardo shall cease trading in securities for a period of two years from the date of this Order of the Commission approving the Settlement Agreement, subject to the following exceptions:

(i) Pardo shall be permitted to trade in securities through a registrant in registered retirement savings plans, registered retirement income funds or tax-free savings accounts (as defined in the *Income Tax Act (Canada)* or locked-in retirement accounts in which he has sole legal and beneficial ownership and interest, provided that:

1. the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer, and

2. Pardo does not own legally or beneficially more than 1% of the outstanding securities of the class or series of the class in question.

(ii) Pardo shall be permitted to trade in the securities of Brainwave Research Corporation and Brainwave Products Inc. (the “Brainwave Entities”). In particular, he is permitted to sell his shares in those companies if and when either or both of them are acquired. He is also permitted to attend and participate in meetings and presentations, and perform all necessary functions ancillary to any sale or placement of securities in either of the Brainwave Entities: and

(iii) All of Pardo’s trading in the securities of Brainwave shall be conducted in compliance with Ontario securities law, and with the advice and assistance of an Ontario law firm with the relevant expertise in the area of securities law and laws governing the distribution of securities;

3. Pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law will not apply to Pardo for a period of two years from the date of this Order of the Commission approving the Settlement Agreement, except with respect to trading of the securities of the Brainwave Entities as described in paragraph 2 above;

4. Pursuant to clause 6 of subsection 127(1) of the Act, Pardo is reprimanded;

5. Pursuant to clause 7 of subsection 127(1) of the Act, Pardo shall resign as director or officer of any issuer on the date of this Order of the Commission approving the Settlement Agreement, except for 503124 Ontario Ltd., the Brainwave Entities and Intelligent Creatures Inc. and its affiliates on the condition that he provides a copy of the Order approving the Settlement Agreement to the Board of Directors of these companies and to their legal counsel within 10 days of the date of this Order approving the Settlement Agreement; and

6. Pursuant to clause 8 of subsection 127(1) of the Act, Pardo shall, except as set out in paragraph 5 above, be prohibited from becoming or acting as director or officer of any issuer for a period of two years from the date of this Order approving the Settlement Agreement, except that he will be permitted to be or act as a director and/or officer of 503124 Ontario Ltd., the Brainwave Entities and Intelligent Creatures Inc. and its affiliates.

DATED at Toronto this 17th day of August, 2012.

SCHEDULE "B"

SUPPLEMENTARY STATEMENT OF FACTS

1. The Commission commenced an enforcement proceeding against the Respondents in November of 2005.
2. The hearing of the matter was set to commence on September 30, 2009. Rene Pardo was unrepresented at all events and attendances before the Commission that are relevant to this chronology.
3. On September 9, 2009, the Commission heard various motions made by the parties. At the conclusion of that attendance, the Chair of the panel exhorted the parties to try and settle.
4. On September 17, 2009, the Commission approved a Settlement Agreement between Staff and the Respondent Gary Usling.
5. Rene Pardo entered into a Settlement Agreement with Staff on September 28, 2009. The Commission issued a Notice of Hearing in connection with the Commission's consideration of that Settlement Agreement. The settlement hearing was set for the next day, September 29, 2009.
6. On September 29, 2009, the settlement panel declined to consider the Settlement Agreement and referred the matters that arose at the settlement hearing to the merits panel on the main hearing, set to commence on September 30, 2009.
7. On September 30, 2009, the merits panel declined to consider the Settlement Agreement, and declined to remit consideration of the Settlement Agreement to another panel.
8. As a result, over the next 6 months Rene Pardo was required to participate in a 58-day hearing of the case against him and those other Respondents who had not settled.
9. On September 7, 2010, the merits panel released its Decision on the merits and found Rene Pardo had violated the *Securities Act*.
10. In Reasons dated January 26, 2011, the merits panel imposed sanctions on Rene Pardo. At no time did the merits panel consider the Settlement Agreement Rene Pardo had reached with Staff of the Commission on September 28, 2009.
11. On November 10, 2011, Rene Pardo was successful in his application for judicial review before the Divisional Court. The Commission's finding that Rene Pardo had breached the *Securities Act* and the Commission's Decision imposing sanctions on him were both quashed.