



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 CONSTANCE ANDERSON**

**SETTLEMENT AGREEMENT BETWEEN  
STAFF OF THE ONTARIO SECURITIES COMMISSION  
AND CONSTANCE ANDERSON**

**PART I – INTRODUCTION**

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Constance Anderson (“Anderson” or the “Respondent”).

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission (“Staff”) agree to recommend settlement of the proceeding commenced by Notice of Hearing (the “Proceeding”) against the Respondent according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

3. For the purposes of this proceeding under the Act, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III and the conclusions in Part IV of this Settlement Agreement (the “Settlement Agreement”).

## **PART III – AGREED FACTS**

### **I. OVERVIEW**

4. The Proceeding relates to Staff’s allegations concerning illegal insider trading in 2009 and 2010 by Anderson in respect of the purchase of securities of two reporting issuers: Brett Resources Inc. (“Brett”) and Excellon Resources Inc. (“Excellon”).

### **II. THE RESPONDENT**

5. In 2009 and 2010, Anderson was employed in investor relations at an Ontario reporting issuer called Starfield Resources Inc. (“Starfield”) and was married to AD. In 2009 and 2010, AD was the President and Chief Executive Officer of Starfield and a director of a reporting issuer called Osisko Mining Corporation (“Osisko”).

### **III. ANDERSON’S CONDUCT**

#### **Brett Resources Inc.**

6. Prior to March 2010, Osisko had engaged in discussions with Brett and conducted due diligence concerning a possible acquisition of Brett by Osisko.

7. On March 11, 2010, AD and the Chief Executive Officer of Osisko, SR, had a conversation by telephone. During this telephone conversation, SR requested and received from AD in his capacity as a director of Osisko the approval to proceed with a letter of intent (the “LOI”) from Osisko to Brett. The LOI was to propose the acquisition of Brett by Osisko.

8. Approximately one minute after the telephone call between AD and SR ended, Anderson logged into her trading account and purchased 9,000 shares of Brett for a cost of \$17,186. In order to free up funds for that transaction, she sold 1,000 Kinross shares immediately before buying the Brett shares.

9. Six minutes after that purchase, Anderson logged into her daughter’s trading account and purchased 2,000 shares of Brett for that account. The next day, on March 12, 2010,

Osisko sent the LOI to Brett offering to acquire all of the outstanding common shares of Brett for an approximate 35% premium. On March 21, 2010, Brett and Osisko jointly announced that they had entered into a definitive support agreement pursuant to which Osisko offered to acquire all of the issued and outstanding common shares of Brett. The offer represented a premium of 52.5% using the 20-day volume weighted average prices of Osisko and Brett on the TSX and TSX Venture, respectively for the 20 trading day period ending March 16, 2010.

10. Brett's share price increased 35% at the close of the markets following the announcement.

11. Anderson sold her Brett shares on May 5, 2010, making \$13,235 in profit (a 77% return). Anderson sold her daughter's Brett shares on the same day for a profit of \$2,883 (a 74% return). The combined profit from those sales was \$16,118.

12. AD was a person in a special relationship with Osisko and was in a special relationship with Brett at the times Anderson purchased and sold Brett by virtue of subsection 76(5)(c)(iv) of the Act. Anderson knew or ought to have known that AD was in a special relationship with Brett, and, consequently, Anderson was in a special relationship with Brett.

13. Anderson must have had and did have knowledge of the material fact that Osisko was proposing to acquire Brett and purchased Brett shares in her account and her daughter's account with that knowledge. The material fact had not yet been generally disclosed.

#### **Excellon Resources Inc.**

14. On June 25, 2009, Anderson purchased 20,000 shares of Excellon, a reporting issuer. At the time of her purchase Anderson knew from AD that he would become Excellon's Chief Executive Officer. The fact of AD's future appointment as CEO of Excellon would reasonably be expected to have a significant effect on the market price or value of Excellon's securities and was, therefore, material.

15. On July 14, 2009, AD's appointment as Excellon's CEO was announced by press release, following which Excellon's share price rose by 9%.

16. Anderson sold her shares of Excellon on September 18, 2009, making a profit \$2,652 (a 48% return).

17. AD was a person in a special relationship with Excellon by virtue of subsection 76(5)(e) of the Act. Anderson knew or ought to have known that AD was in a special relationship with Excellon when she purchased Excellon shares. Consequently, Anderson was also in a special relationship with Excellon.

***Profits Made by Anderson***

18. Anderson made a combined profit of \$18,770 in respect of the Brett and Excellon purchases she made for herself and her daughter.

**PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST**

19. Anderson was in a special relationship with Brett and purchased Brett securities with knowledge of a material generally-undisclosed fact respecting Brett contrary to section 76(1) of the Act and also thereby acted contrary to the public interest.

20. Anderson was in a special relationship with Excellon, and purchased Excellon securities with knowledge of a material generally-undisclosed fact respecting Excellon contrary to section 76(1) of the Act and also thereby acted contrary to the public interest.

**PART V – RESPONDENT'S POSITION**

21. Anderson does not have a precise recollection of the circumstances that led her to purchase the Brett shares on March 11, 2010. However, Anderson recognizes that given the facts set out above, it can be concluded she must have known and did know the material fact that Osisko was proposing to acquire Brett and purchased Brett shares in her account and her daughter's account with that knowledge.

22. By agreeing to settle, Anderson has brought this matter to an early resolution.

#### **PART VI – TERMS OF SETTLEMENT**

23. Anderson agrees to the terms of settlement listed below.

24. The Commission will make an order, pursuant to sections 127 and 127.1 of the Act, that:

- a. the Settlement Agreement is approved;
- b. pursuant to paragraph 2 of subsection 127(1), trading in any securities (including as the term is defined in subsection 76(6) of the Act) by Anderson, whether direct or indirect, shall cease permanently;
- c. pursuant to paragraph 2.1 of subsection 127(1), the acquisition of any securities by Anderson, including as the term “security” is defined in subsection 76(6) of the Act, whether direct or indirect, is prohibited permanently;
- d. As exceptions to the provisions of paragraph 24(b), Anderson is permitted to sell securities in her accounts through a registered dealer for a period of sixty days from the date of the order approving this settlement agreement provided that she has given a copy of this Settlement Agreement and order approving the Settlement Agreement to such registered dealer, and Anderson is permitted to sell securities of North American Palladium Ltd. (“NAP”) as soon as practicable following the date of the order approving this settlement agreement provided that Anderson provides notice to Staff forthwith upon the liquidation of her holdings in NAP ;
- e. After the payments set out in paragraphs 24(k),(l) and (m), below, are made in full, as an exception to the provisions of paragraphs 24(b) and (c):

- (i) Acquisition and trading by Anderson shall be permitted only in mutual fund, exchange-traded fund or index fund securities, and guaranteed investment certificates for the account of any registered retirement savings plans, tax free savings accounts and self-directed retirement savings plans in which Anderson has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must first give a copy of this Settlement Agreement and order. Anderson must forthwith provide a copy of this Settlement Agreement and order to the registrants where she holds her existing accounts and at the time she opens or modifies such accounts; and
- f. pursuant to paragraph 3 of subsection 127(1), any exemptions contained in Ontario securities law do not apply to Anderson permanently;
- g. pursuant to paragraph 6 of subsection 127(1), Anderson is reprimanded;
- h. pursuant to paragraphs 8, 8.2, and 8.4 of subsection 127(1), Anderson is prohibited permanently from becoming or acting as an officer or director of any issuer, registrant, or investment fund manager;
- i. As an exception to the prohibition in paragraph 24(h), Anderson is permitted to act as or become an officer or director of an issuer with five or fewer shareholders;
- j. pursuant to paragraph 8.5 of subsection 127(1), Anderson is prohibited permanently from becoming or acting as a registrant, an investment fund manager, or a promoter;
- k. pursuant to paragraph 10 of subsection 127(1), Anderson shall disgorge to the Commission \$18,770, being the combined profits obtained through the Brett and Excellon trading as a result of her non-compliance with Ontario securities

law. The disgorged amount shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;

- l. pursuant to paragraph 9 of subsection 127(1), Anderson shall pay an administrative penalty of \$18,770 for her failure to comply with Ontario securities law in respect of the Brett and Excellon trading, which represents one time the profit made by the Respondent through that misconduct. The administrative penalty shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and
  - m. pursuant to subsection 127.1(1) of the Act, Anderson shall also pay investigation costs to the Commission in the amount of \$10,000.
25. Anderson undertakes to pay the amounts described above prior to the date of the public hearing approving this settlement agreement.
26. Anderson undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the non-monetary prohibitions set out in the Settlement Agreement. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.
27. Anderson agrees to attend in person at the hearing before the Commission to consider the proposed settlement, or, if precluded from returning to Toronto, she agrees to attend by video conference.

## **PART VII – STAFF COMMITMENT**

28. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 29 below.

29. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

## **PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT**

30. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's *Rules of Procedure*.

31. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

32. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

33. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.



34. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

#### **PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT**

35. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

- a. this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
- b. Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

36. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

#### **PART X – EXECUTION OF SETTLEMENT AGREEMENT**

37. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

38. A PDF copy of any signature will be treated as an original signature.

**DATED AT TORONTO** this 4th day of May 2015.

*“Constance Anderson”*

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Constance Anderson

*“David Hausman”*

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Witness  
(signature and printed name)

*“Tom Atkinson”*

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Tom Atkinson  
Director, Enforcement Branch



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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22<sup>nd</sup> étage  
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SCHEDULE "A"

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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 CONSTANCE ANDERSON**

**IN THE MATTER OF A SETTLEMENT AGREEMENT BETWEEN  
STAFF OF THE ONTARIO SECURITIES COMMISSION  
AND CONSTANCE ANDERSON**

**ORDER**

**(Subsections 127(1) and 127.1(1))**

**WHEREAS** on May 1, 2015 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"), and Staff of the Commission ("Staff") filed a statement of allegations (the "Statement of Allegations") in respect of Constance Anderson ("Anderson");

**AND WHEREAS** Anderson has entered into a Settlement Agreement with Staff dated May 4, 2015 (the "Settlement Agreement") in which Anderson agreed to a proposed settlement in relation to the matters set out in the Notice of Hearing and the Statement of Allegations;

**AND WHEREAS** in the Notice of Hearing the Commission announced that it proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement between Staff and Anderson;

**AND WHEREAS** Anderson has made payments of \$37,540 and \$10,000 in costs prior to the approval of the Settlement Agreement;

**AND UPON** the Commission having reviewed the Notice of Hearing, the Statement of Allegations, and the Settlement Agreement, and having heard submissions from counsel for Anderson and for Staff;

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

**IT IS HEREBY ORDERED THAT:**

- a. the Settlement Agreement is approved;
- b. pursuant to paragraph 2 of subsection 127(1), trading in any securities (including as the term is defined in subsection 76(6) of the Act) by Anderson, whether direct or indirect, shall cease permanently;
- c. pursuant to paragraph 2.1 of subsection 127(1), the acquisition of any securities by Anderson, including as the term “security” is defined in subsection 76(6) of the Act, whether direct or indirect, is prohibited permanently;
- d. As exceptions to the provisions of paragraph (b) herein, Anderson is permitted to sell securities in her accounts through a registered dealer for a period of sixty days from the date of the order approving this settlement agreement provided that she has given a copy of this Settlement Agreement and order approving the Settlement Agreement to such registered dealer, and Anderson is permitted to sell securities of North American Palladium Ltd. (“NAP”) as soon as practicable following the date of the order approving this settlement agreement provided that Anderson provides notice to Staff forthwith upon the liquidation of her holdings in NAP ;

- e. After the payments set out in paragraphs (k),(l) and (m), below, are made in full, as an exception to the provisions of paragraphs (b) and (c) herein:
  - (i) Acquisition and trading by Anderson shall be permitted only in mutual fund, exchange-traded fund or index fund securities, and guaranteed investment certificates for the account of any registered retirement savings plans, tax free savings accounts and self-directed retirement savings plans in which Anderson has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must first give a copy of this Settlement Agreement and order. Anderson must forthwith provide a copy of this Settlement Agreement and order to the registrants where she holds her existing accounts and at the time she opens or modifies such accounts; and
- f. pursuant to paragraph 3 of subsection 127(1), any exemptions contained in Ontario securities law do not apply to Anderson permanently;
- g. pursuant to paragraph 6 of subsection 127(1), Anderson is reprimanded;
- h. pursuant to paragraphs 8, 8.2, and 8.4 of subsection 127(1), Anderson is prohibited permanently from becoming or acting as an officer or director of any issuer, registrant, or investment fund manager;
- i. As an exception to the prohibition in paragraph(h) herein, Anderson is permitted to act as or become an officer or director of an issuer with five or fewer shareholders;
- j. pursuant to paragraph 8.5 of subsection 127(1), Anderson is prohibited permanently from becoming or acting as a registrant, investment fund manager, or a promoter;

- k. pursuant to paragraph 10 of subsection 127(1), Anderson shall disgorge to the Commission \$18,770, being the combined profits obtained through the Brett Resources Inc. (“Brett”) and Excellon Resources Inc. (“Excellon”) trading as a result of her non-compliance with Ontario securities law. The disgorged amount shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;
- l. pursuant to paragraph 9 of subsection 127(1), Anderson shall pay an administrative penalty of \$18,770 for her failure to comply with Ontario securities law in respect of the Brett and Excellon trading, which represents one time the profit made by the Respondent through that misconduct. The administrative penalty shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and
- m. pursuant to subsection 127.1(1) of the Act, Anderson shall also pay investigation costs to the Commission in the amount of \$10,000.

**DATED** at Toronto, this \_\_\_\_day of May 2015.

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Mary G. Condon