



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF HARALD SEEMANN, JENS BRANDT and
KARL PAWLOWICZ**

**SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION
and KARL PAWLOWICZ**

PART I - INTRODUCTION

1. This matter is about the Chief Executive Officer ("CEO") and director of a public company participating in and facilitating manipulative trading in shares of Big Rock Labs Inc. ("BLA"). Karl Pawlowicz ("Pawlowicz" or "the Respondent"), provided access to and allowed Harald Seemann ("Seemann") to engage in manipulative trading of BLA shares in his trading accounts for a one year period. The conduct of Pawlowicz completely failed to meet the standard expected of a director and officer participating in Ontario's capital market and is contrary to the purposes of the *Securities Act*, RSO 1990, c. S.5 (the "Act") of protecting investors from unfair, improper or fraudulent practices and fostering fair and efficient markets and confidence in capital markets.

2. The parties will jointly file a request that the Ontario Securities Commission (the "Commission") issue a Notice of Hearing (the "Notice of Hearing") to announce that it will hold a hearing (the "Settlement Hearing") to consider whether, pursuant to sections 127 and 127.1 of the Act, it is in the public interest for the Commission to make certain orders against Pawlowicz.

PART II - JOINT SETTLEMENT RECOMMENDATION

3. Staff of the Commission ("Staff") recommend settlement of the proceeding (the "Proceeding") against the Respondent commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part V of this Settlement Agreement. Staff and the Respondent consent to the making of an order (the "Order") in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out herein.

4. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts

set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

PART III - AGREED FACTS

A. Overview

5. From June 2014 to June 2015 (the "Material Time"), Pawlowicz participated in the manipulative trading of BLA shares by providing Seemann with access to, and allowing him to trade, BLA shares in his two Questrade accounts. Pawlowicz also engaged in manipulative trading by placing a bid for BLA shares in his Toronto Dominion Bank ("TD") trading account as directed by Seemann as Seemann did not have access to Pawlowicz's TD account. By engaging in such behaviour, Pawlowicz interfered with the free and fair operation of the market.

B. The Respondent

6. Pawlowicz is a resident of Ontario. Pawlowicz was the CEO and a director of BLA from June 2014 to August 2015. Pawlowicz has never been registered with the Commission in any capacity.

7. BLA is a public company which was incorporated in British Columbia in April 2014. Its shares are listed on the Canadian Securities Exchange and the Frankfurt Stock Exchange. BLA is a reporting issuer in Ontario with its registered address in Toronto. In 2014, BLA was a technology company which specialized in digital product research and development. BLA did not earn any revenue during the Material Time.

8. Seemann was the founder, Chief Financial Officer and a director of BLA. He was the directing mind of the company.

C. Pawlowicz's Participation in the Manipulative Trading in BLA Shares

9. Pawlowicz was directed by Seemann to and did open two trading accounts at Questrade (the "Questrade accounts") in May 2014. Pawlowicz then provided Seemann with his log-in information and consent to conduct trading activity in his Questrade accounts. Pawlowicz was also aware that Seemann held the log-in information to the trading accounts of four other insiders at BLA ("Other Insiders").

10. Seemann used his access to Pawlowicz's Questrade accounts, as well as his access to the accounts of the Other Insiders, to engage in manipulative trading of BLA shares from June 2014 to June 2015. Pawlowicz was aware that Seemann was trading

BLA shares in his Questrade accounts, as well as through the accounts of the Other Insiders.

11. Pawlowicz also held a cash trading account at TD. Seemann did not have access to Pawlowicz's TD account. In July 2014, Seemann instructed Pawlowicz to place a bid for BLA shares on the market through his TD account and then to advise Seemann that the bid had been made. As instructed by Seemann, Pawlowicz placed the bid for BLA shares. Seemann told Pawlowicz to place bids in an attempt to show that there was an interest in buying BLA shares. Pawlowicz followed Seemann's instructions.

D. Pawlowicz Failed To Meet The Standard Expected of an Officer and Director

12. As the CEO and a director of BLA, Pawlowicz was also responsible for BLA's compliance with Ontario securities legislation. Pawlowicz's conduct of: (i) participating in manipulative trading of BLA shares by providing Seemann with access to and use of his trading accounts; and (ii) placing a bid for BLA shares in his TD account at the direction of Seemann, completely failed to meet the standard expected of an officer and director participating in Ontario's capital markets.

13. Pawlowicz was not advised by Seemann or others that Seemann's trading practices were representative of improper or manipulative trading under the Act.

14. Staff do not allege that the Respondent earned a profit as a result of his manipulative activity described in paragraphs 9 to 11 of this Settlement Agreement.

E. Mitigating Factors

15. Pawlowicz has not previously been the subject of OSC disciplinary proceedings.

16. Pawlowicz has cooperated with Staff throughout the course of Staff's investigation and these proceedings.

17. Pawlowicz has expressed remorse for his actions and saved the OSC significant time and resources associated with conducting a fully contested hearing on the merits.

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

18. By engaging in the conduct described above, Pawlowicz admits and acknowledges that he has breached Ontario securities law by contravening subsection 126.1(1)(a) of the Act and engaged in conduct contrary to the public interest.

PART V - TERMS OF SETTLEMENT

19. The Respondent agrees to the terms of settlement set out below.
20. The Respondent consents to the Order, pursuant to which it is ordered that:
 - (a) this Settlement Agreement be approved;
 - (b) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (c) the Respondent pay an administrative penalty of \$12,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act;
 - (d) trading by the Respondent in any securities and derivatives cease for a period of 2 years commencing on the date of the Order pursuant to paragraph 2 of subsection 127(1) of the Act, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, registered education saving plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;
 - (e) the acquisition of any securities by the Respondent is prohibited for a period of 2 years commencing on the date of the Commission's order approving this Settlement Agreement pursuant to paragraph 2.1 of subsection 127(1) of the Act, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, registered education saving plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in

Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;

- (f) any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 2 years, commencing on the date of the Commission's order approving this Settlement Agreement, pursuant to paragraph 3 of subsection 127(1) of the Act; and
- (g) the Respondent be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Commission's order approving this Settlement Agreement, pursuant to paragraph 8 of subsection 127(1) of the Act.

21. The amount set out in sub-paragraph 20(c) shall be paid by the Respondent by the date of the Commission's Order approving this Settlement Agreement, by way of certified cheque payable to "the Ontario Securities Commission".

22. The Respondent acknowledges that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which the Respondent intends to engage in any securities - or derivatives - related activities, prior to undertaking such activities.

23. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 20(d), (e), (f) and (g) above. These sanctions may be modified to reflect the provisions of the relevant provincial or territorial law.

PART VI - FURTHER PROCEEDINGS

24. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement, in which case Staff may bring proceedings under Ontario securities law against the Respondent that

may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

25. The Respondent acknowledges that, if the Commission approves this Settlement Agreement and the Respondent fails to comply with any term in it, the Commission is entitled to bring any proceedings necessary.

26. The Respondent waives any defences to a proceeding that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

27. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's Rules of Procedure, adopted October 31, 2017.

28. The Respondent will attend the Settlement Hearing in person.

29. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

30. If the Commission approves this Settlement Agreement:

- (a) the Respondent irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and
- (b) the parties will not make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

31. 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 Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

32. If the Commission does not make the Order:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing 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 on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

33. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

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

35. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto, this "29th" day of "May", 2018.

"Bill R. Michelson"
Witness: (print name):

"Karl Pawlowicz"
Karl Pawlowicz

DATED at Toronto, Ontario, this "29th" day of "May", 2018.

**STAFF OF THE ONTARIO SECURITIES
COMMISSION**

By: "Jeff Kehoe"
Name: Jeff Kehoe
Title: Director, Enforcement Branch



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Schedule "A"

IN THE MATTER OF HARALD SEEMANN, JENS BRANDT and KARL PAWLOWICZ

[INSERT COMMISSIONERS OF THE PANEL]

____, 2018

ORDER Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5

WHEREAS on ____, 2018, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the approval of a settlement agreement dated ____, 2018 (the **Settlement Agreement**) between Karl Pawlowicz (the **Respondent**) and Staff of the Commission (**Staff**);

ON READING the Statement of Allegations dated May 3, 2018 and the Settlement Agreement and on hearing the submissions of representatives of Staff and the Respondent;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
3. the Respondent pay an administrative penalty of \$12,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act;
4. trading by the Respondent in any securities and derivatives cease for a period of 2 years commencing on the date of the Order pursuant to paragraph 2 of subsection 127(1) of the Act, except that trading shall be permitted in mutual

- fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, registered education saving plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;
5. the acquisition of any securities by the Respondent is prohibited for a period of 2 years commencing on the date of the Commission's order approving this Settlement Agreement pursuant to paragraph 2.1 of subsection 127(1) of the Act, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, registered education saving plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom he must give a copy of this Order at the time he opens or modifies these accounts;
 6. any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 2 years, pursuant to paragraph 3 of subsection 127(1) of the Act; and
 7. the Respondent be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Commission's order approving this Settlement Agreement, pursuant to paragraph 8 of subsection 127(1) of the Act.
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