



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF
THE *SECURITIES ACT*, RSO 1990, c S.5**

- and -

**IN THE MATTER OF
AOUAD CHOUIFI**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) allege:

I. OVERVIEW

1. On February 10, 2016, Aouad Choufi (“Choufi” or the “Respondent”) entered into a Settlement Agreement and Undertaking with the Alberta Securities Commission (the “ASC”) (the “Settlement Agreement”).
2. Pursuant to the Settlement Agreement, Choufi agreed to certain undertakings and to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
3. Staff are seeking an inter-jurisdictional enforcement order reciprocating the Settlement Agreement, pursuant to paragraph 5 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990, c S.5 (the “Act”).

II. THE ASC PROCEEDINGS

Agreed Facts

4. In the Settlement Agreement, Choufi agreed with the following facts:

Parties

5. Choufi is a Calgary, Alberta resident. At all material times, he was employed by Kelt Exploration Ltd. (“Kelt”) in the position of Exploitation Engineer.
6. Kelt is a publically traded oil and gas producing company, whose shares are listed for trading on the Toronto Stock Exchange (the “TSX”). Kelt’s head office is in Calgary.
7. Artek Exploration Ltd. (“Artek”), as of February 2015, was a publically traded oil and gas producing company with shares listed for trading on the TSX. Its head office was in Calgary. Kelt completed the acquisition of all of the issued and outstanding common shares of Artek on April 16, 2015, and Artek was delisted from the TSX on April 21, 2015.

Circumstances

February 23, 2015, Announcement

8. On Monday, February 23, 2015, at 7 a.m. EST (the “February 23 Announcement”), Artek/Kelt announced that Artek had entered into an arrangement with Kelt pursuant to which Kelt had agreed to acquire all of the issued and outstanding common shares of Artek (the “Agreement”).
9. Under the terms of the Agreement, Artek shareholders were to receive 0.34 common shares of Kelt for each Artek share held. Based on an average trading price of \$8.10 per Kelt share, this represented a value per Artek share of \$2.76. The \$2.76 price per Artek share was a 61% premium to its then average trading price.

The Material Facts

10. On January 28, 2015, the President and CEO of Kelt met with the President and CEO of Artek, and Kelt asked if Artek would consider being acquired by Kelt.
11. On February 9, 2015, mutual confidentiality agreements were circulated between the two companies. That same day, the Kelt board of directors implemented an immediate blackout – prohibiting trading in Artek by all individuals at Kelt with knowledge of the proposed Agreement.
12. On February 11, 2015, a non-binding letter of intent regarding the proposed Agreement was delivered by Kelt to Artek.
13. On February 12, 2015, Choufi was made aware of the negotiations and possible Agreement between Artek and Kelt.
14. On February 19, 2015, Choufi provided an overview of Artek’s petroleum and natural gas reserves to an independent committee formed at Kelt to consider the transaction.

Trading in Artek and Tipping Others

15. The Investment Industry Regulatory Organization of Canada (“IIROC”) was alerted to an unusual upwards price movement and an increase in the trading volume of Artek shares prior to the February 23 Announcement. IIROC referred the matter to the ASC for investigation.
16. At or around the time of the referral, IIROC received a “Gatekeeper Report” from TD Waterhouse Canada Inc.’s trading surveillance department (“TD Waterhouse”). The TD Waterhouse Gatekeeper Report was in regards to suspicious purchases of Artek shares by its client, Choufi, on February 19 and February 20, 2015.
17. Choufi admits that as at February 19, 2015:
 - a. he was in a special relationship with Artek due to his position at Kelt and his knowledge of the negotiations and possible Agreement;

- b. he knew that the possible Agreement had not been generally disclosed; and
 - c. he knew that the possible Agreement was a material fact with respect to Artek.
18. On February 19 and 20, 2015, and with this knowledge, Choufi:
- a. purchased 26,823 shares of Artek in his direct investment accounts at TD Waterhouse at an average price per share of \$1.695; and
 - b. purchased 25,700 Artek shares for the benefit of and through the account of another person, at a cost of approximately \$42,531.
19. At market close on February 23, 2015, one full day of trading following the February 23 Announcement, and using a closing price for Artek of \$2.61, a profit before commission of \$24,496 would have resulted from the sale of the Artek shares in Choufi's account, and a profit of \$24,546 from the sale of Artek shares in the other person's account.
20. Choufi admits that in addition to his own trading in Artek shares, he also informed an acquaintance of his in Edmonton of the negotiations and possible Agreement prior to the February 23 Announcement (the "Tippee"). Choufi was unaware at the time, but is advised and has no reason to dispute, that the Tippee purchased 41,500 shares of Artek through a numbered company on February 20, 2015, at a cost of approximately \$70,000. These shares were sold days later on February 23 and 25, 2015, for a profit before commissions of \$39,868.

Admitted Breaches of Alberta Securities Laws

21. Based on the Agreed Facts, Choufi admits he:
- a. breached section 147(3) of the *Alberta Securities Act*, RSA 2000, c S-4 (the "Alberta Act") by purchasing shares of Artek, while in a special relationship with it, and with knowledge of a material fact with respect to Artek that had not been generally disclosed;

- b. breached section 147(4) of the Alberta Act by informing another person, while in a special relationship with Artek, of a material fact with respect to Artek that had not been generally disclosed; and
- c. acted contrary to the public interest in his actions described within the Agreed Facts.

The Settlement Agreement and Undertakings

22. Pursuant to the Settlement Agreement, Choufi agreed to certain undertakings and to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta. Choufi agreed and undertook to:
- i. pay to the ASC a monetary settlement of \$36,744, representing 1.5 times the profit or expected profit from the trading in his own account;
 - ii. pay to the ASC as disgorgement the sum of \$24,546, representing the profit or expected profit from his trading through the other's account;
 - iii. pay to the ASC the sum of \$15,000 for costs of the ASC's investigation;
 - iv. cease trading in securities for a period of 6 years, except that he may:
 - 1. trade in and/or purchase securities or derivatives through a registrant who has been given a copy of the Settlement Agreement, using one Registered Retirement Savings Plan account, one Registered Education Savings Plan, and one Locked in Retirement Account;
 - 2. participate in Kelt's Incentive Stock Option Plan and Restricted Share Unit Plan; and
 - 3. purchase securities in an issuer whose securities are not distributed to the public;
 - v. cooperate with ASC Staff in their investigation of, and the conclusion of any allegations made against, the Tippee.

III. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

23. In the Settlement Agreement, the Respondent agreed to be made subject to sanctions, conditions, restrictions or requirements within the province of Alberta.
24. Pursuant to paragraph 5 of subsection 127(10) of the Act, an agreement with a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, to be made subject to sanctions, conditions, restrictions or requirements on the person or company may form the basis for an order in the public interest made under subsection 127(1) of the Act.
25. Staff allege that it is in the public interest to make an order against the Respondent.
26. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.
27. Staff request that this application be heard by way of a written hearing pursuant to Rules 2.6 and 11 of the Ontario Securities Commission's *Rules of Procedure*.

DATED at Toronto, this 1st day of June, 2016.