

Settlement Agreement

Bank Gutenberg AG, Gutenberg Management AG and Gutenberg Group AG (collectively, the Respondents)

Securities Act, RSBC 1996, c. 418

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director), and Bank Gutenberg AG (Bank Gutenberg), Gutenberg Management AG (Gutenberg Management) and Gutenberg Group AG (Gutenberg Group) agree as follows:

Agreed Statement of Facts

The Respondents

1. Bank Gutenberg, formerly CAT Brokerage AG, is a Swiss private bank and investment dealer.
2. Gutenberg Management provides portfolio management, research and administrative services to Bank Gutenberg.
3. Gutenberg Group is the parent company and fully owns each of Bank Gutenberg and Gutenberg Management. The Respondents have offices at the same address in Zurich but represent the facilities are clearly separated and not shared in line with Swiss legal requirements.
4. None of the Respondents has ever been registered under the *Securities Act*, RSBC 1996, c. 418 (the Act).

Unregistered Trading

5. From at least January 2010, Bank Gutenberg promoted itself through its website as providing offshore securities brokerage services. The website posts restrictions or limitations on who may open accounts or use the advertised services only in a general disclaimer not specific to residents of British Columbia.
6. A portion of Bank Gutenberg's assets under administration included accounts of non-Canadian corporations where one or more of the beneficial shareholders are resident in British Columbia (BC). The Respondents represent, and the Executive Director accepts, that before accepting these accounts Bank Gutenberg took steps to ensure that the beneficial owner had no

power of attorney over the account or signatory rights for the company. Despite this structure, Commission staff identified two BC residents that had accounts with Bank Gutenberg in the names of offshore corporations they controlled, but who, directly from BC, provided instructions to Gutenberg Management employees to trade in BC reporting issuers listed on the TSX Venture Exchange (TSXV) through their Bank Gutenberg accounts.

7. The Respondents made additional BC connections between January 2010 and February 2013 (the Relevant Period):
 - (a) A director common to both Bank Gutenberg and Gutenberg Management conducted trips to Vancouver to meet with BC registrants and other BC market participants;
 - (b) Bank Gutenberg employed two former BC registrants with regulatory histories on their night trade desk who had no advisory activity but order execution only;
 - (c) The former BC registrants traded securities listed on the TSXV; and
 - (d) Bank Gutenberg held sixteen accounts, all in its own name, with six different Vancouver brokerage firms as at February 2013, which Bank Gutenberg used to purchase and trade securities of BC reporting issuers on the TSXV.
8. Over the Relevant Period, the total volume of transactions (including trades and purchases) in the sixteen BC-based Bank Gutenberg accounts was about \$327.8 million in all issuers (the BC-based Trading). Some, but not all, of the BC-based trading was for clients based in BC.

Misconduct

9. Bank Gutenberg breached section 34(a) of the Act (persons who must be registered) in the Relevant Period by:
 - (a) Offering or soliciting trades of securities through its website, where Bank Gutenberg held itself out as being in the business of trading and advising in securities, without:
 - (i) Prominently displaying a disclaimer that identifies the foreign jurisdictions in which the offering or solicitation is qualified to be made; or
 - (ii) Taking all reasonable precautions not to sell to BC residents; and

- (b) Trading in securities of BC issuers on behalf of the two BC Residents that Commission staff identified, and on behalf of additional BC residents represented by about 5% of the BC-based Trading, without:
 - (i) Being registered with the Commission to do so; or
 - (ii) Taking all reasonable precautions not to allow BC residents to engage in any act in furtherance of a trade through Bank Gutenberg, including control over an account (for example, providing instructions) or benefitting from an account (for example, receiving trading proceeds).

Public Interest

10. It is in the public interest that the Executive Director issue orders under section 161 of the Act.

Undertaking

The Respondents undertake to pay \$850,000 to the British Columbia Securities Commission in respect of settlement of this matter which sum is due and payable immediately without further demand, and of which \$50,000 represents costs of the investigation.

Order

¶ 2 The Executive Director will issue an order (the Order) that under sections 161(1)(b) and 161(1)(d)(v) of the Act, the Respondents permanently:

1. Cease trading in, and are prohibited from purchasing, any securities; and
2. Are prohibited from engaging in investor relations activities.

Consent to Regulatory Orders

¶ 3 The Respondents consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the Order set out in paragraph 2 above.

Waiver

¶ 4 The Respondents waive any right they may have, under the Act or otherwise, to a hearing, hearing and review, judicial review or appeal related to, in connection with, or incidental to this settlement.

Counterpart

¶ 5 This Settlement Agreement may be executed in counterpart, or by facsimile execution or other electronic execution, and all such counterparts of executed copies, or faxed or electronic copies, shall be read or construed together as if they formed one originally executed document.

¶ 6 September 19, 2014

¶ 7 M. Widmer
Bank Gutenberg AG
(Signing Authority)

Erwin Hass)
Witness Signature)
Erwin Hass)
Witness Name (please print))
Gutenbergstr. 10)
8002 Zurich)
Address)
Chairman)
Occupation)

¶ 8 September 19, 2014

M. Bianchi
Gutenberg Management AG
(Signing Authority)

Erwin Hass)
Witness Signature)
Erwin Hass)
Witness Name (please print))
Gutenbergstr. 10)
8002 Zurich)
Address)
Chairman)
Occupation)

September 19, 2014

¶ 9 M. Widmer
Gutenberg Group AG
(Signing Authority)

Erwin Hass)
Witness Signature)
Erwin Hass)
Witness Name (please print))
Gutenbergstr. 10)
8002 Zurich)
Address)
Chairman)
Occupation)

¶ 10 September 23, 2014

Paul Bourque
¶ 11 Paul C. Bourque, Q.C.
Executive Director