

Citation: 2015 BCSECCOM 138

Settlement Agreement

Donald Gordon Byrne

Securities Act, RSBC 1996, c. 418

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Donald Gordon Byrne (Byrne) agree as follows:

Agreed Statement of Facts

Background

1. Byrne is a resident of Lumby, British Columbia and works as a self-employed technician.
2. Robert Scott Morrice (Morrice) is a retired lawyer who lives in Victoria, British Columbia. Byrne was a friend and business associate of Morrice's prior to 2006.
3. In 2006, Byrne and Morrice talked about incorporating a mining company because Morrice had prior knowledge about obtaining ticker symbols for companies on the United States Over-the-Counter markets (OTC) and selling them after incorporation. After their discussion, Morrice incorporated Edgemont Mining Inc. (Edgemont) in Nevada for this purpose.
4. To facilitate Edgemont's incorporation and ticker symbol, Byrne enlisted his friend to be the nominee director of Edgemont. Byrne's friend was employed as a mill worker in British Columbia at the time, and his role consisted only of signing documents and US Securities and Exchange Commission (SEC) filings that were presented to him by Byrne.
5. Byrne also found the required seed shareholders for Edgemont so it could be quoted on the OTC. He asked the seed shareholders to sign the appropriate documents, but he put his own personal funds into Edgemont for the financing instead of the seed shareholders.
6. Despite the fact that its SEC filings said that Edgemont was in the mining business, it was a shell company. It had minimal assets and no active business.

The new OTC rule

7. In July 2008, Corporate Finance Compliance staff sent a letter addressed to Edgemont informing it that because it had significant connections to British

Columbia, a new OTC rule, BC Instrument 51-509 (OTC Rule), applied to Edgemont.

8. The OTC Rule was an initiative to address the potential harm caused to the reputation of British Columbia's securities markets by abusive activities from British Columbia market participants through over-the-counter markets in the United States.
9. The OTC Rule imposed for the first time:
 - (a) filing requirements for OTC reporting issuers, and
 - (b) some restrictions on the resale of OTC securities.

Byrne arranged for nominee directors outside British Columbia

10. Byrne consulted Morrice when he received the July 2008 letter addressed to Edgemont. Morrice then informed Byrne about two other OTC shell companies with British Columbia directors that Morrice was maintaining to eventually sell for a profit: Interfac Mining Inc. (Interfac) and Jupiter Resources Inc. (Jupiter).
11. Morrice and Byrne developed a plan to circumvent the new OTC Rule for Edgemont, Interfac, and Jupiter (collectively, the Shell Companies). Byrne had family in Saskatchewan and he asked them to help find new directors for the Shell Companies to create the appearance that the Shell Companies were being operated outside of British Columbia.
12. Morrice and Byrne agreed that Byrne would get a percentage of the sale price when the Shell Companies were eventually sold.
13. The new Saskatchewan directors were a farmer, a welder, and a freight broker (the Saskatchewan Nominees). None of them had any experience in mining or had ever held any executive positions with a company. The Saskatchewan Nominees were all friends, and Byrne told them the Shell Companies were going to be sold and they would be paid some money.
14. The Saskatchewan Nominees did not perform any executive roles for the Shell Companies. Their roles were limited to signing documents at the request of Morrice and Byrne.
15. Morrice and Byrne told the Saskatchewan Nominees to write cheques to make it appear that they purchased shares from the former BC directors of the Shell Companies. The Saskatchewan Nominees did not use their own money to pay

for the shares. Either the Saskatchewan Nominees' cheques were not cashed or Morrice and Byrne transferred money into the Saskatchewan Nominees' accounts to cover the amount of the cheques written.

Mitigating Factors

16. Edgemont was never sold. Byrne put up around \$25,000 of his own capital to facilitate Edgemont's incorporation and purported jurisdiction change, and he has not recovered any of that money.

Public Interest

17. Byrne helped to disguise who was controlling the Shell Companies by finding and instructing nominee directors in order to evade the application of the OTC Rule. This conduct was contrary to the public interest because by doing so, Byrne harmed the reputation, credibility, and integrity of the securities market in British Columbia.

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

Order

¶ 2 The Executive Director will issue an order that:

1. Under section 161(1)(d)(ii) of the Act, Byrne is prohibited from becoming or acting as a director or officer of any issuer or registrant;
2. Under section 161(1)(d)(iii) of the Act, Byrne is prohibited from becoming or acting as a registrant or promoter;
3. Under section 161(1)(d)(iv) of the Act, Byrne is prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
4. Under section 161(1)(d)(v) of the Act, Byrne is prohibited from engaging in investor relations activities,

for a period of four years.

Consent to Regulatory Orders

¶ 3 Byrne consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the orders set out in paragraphs 1 to 4 above.

Waiver

¶ 4 Byrne waives any right he 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 and all such counterparts of executed copies or faxed copies shall be read or construed together as if they formed one originally executed document.

¶ 6 April 23, 2015

Donald Byrne

¶ 7 _____
Donald Gordon Byrne

David Ryan

_____)
Witness Signature)
David Ryan)
Witness Name (please print))
13328 96th Street)
Edmonton, AB T5E 4B3)
Address)
Electrical Supervisor)
Occupation)

¶ 8 April 29, 2015

Paul Bourque

¶ 9 _____
Paul C. Bourque, Q.C.
Executive Director