

## 2002 BCSECCOM 292

### Headnote

Partial revocation of cease trade order to permit issuer to complete debt settlement under Bankruptcy and Insolvency Act proposal and to raise a limited amount of funds for the purposes of updating its financial statements and completing a reorganization

### Variation Order

#### Sahelian Goldfields Inc.

#### Section 171 of the *Securities Act*, R.S.B.C. 1996, c. 418

[para 1]

On May 21, 1999 the Executive Director made an order (Order) under section 164 of the Securities Act, R.S.B.C. 1996, c. 418 that all trading in securities of Sahelian Goldfields Inc. cease until it files the Required Records referred to in the Order.

[para 2]

Sahelian has applied to the Executive Director for an order under section 171 of the Act partially revoking the Order.

[para 3]

Sahelian has represented to the Executive Director that:

1. it was formed under the *Business Corporations Act* (Ontario) on October 1, 1997, by the amalgamation of Sahelian Goldfields Inc. and Sahelian Goldfields Ltd.;
2. it is a reporting issuer under the securities legislation (Legislation) of the provinces of British Columbia and Ontario;
3. the Cease Trade Order was issued because Sahelian failed to file and send to its shareholders its audited annual financial statements for the period ended September 30, 1999, and its interim financial statements for the period ended December 31, 1999, as required by the Act;
4. it is also subject to a cease trade order of the Ontario Securities Commission (OSC) dated June 14, 2000; it has concurrently applied to the OSC for a partial revocation of its cease trade order;
5. it is not in default of any of the requirements of the Act other than its failure to file or properly file financial statements since filing interim financial statements for the nine month period ended June 30, 1998;

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6. it has not remedied the deficiencies described in paragraph 5 as it does not currently have sufficient funds to do so;
7. its authorized capital consists of an unlimited number of common shares (Common Shares), of which 20,300,000 Common Shares are issued and outstanding;
8. on July 20, 2001, Sahelian, acting through its trustee, KPMG Inc., Toronto (Trustee), filed a proposal (Proposal) to its creditors under the Bankruptcy and Insolvency Act (Canada) (BIA); the Proposal, the Trustee's report and an overview of the Proposal describing the circumstances of its financial difficulties were sent to creditors (Creditors) in accordance with the applicable provisions of the BIA; as of the date of filing of the Proposal, the Creditors have been stayed from taking action against Sahelian; it has not been placed into receivership or bankruptcy;
9. the Proposal was approved by a majority of the Creditors at a meeting duly convened and held for such purpose, on August 8, 2001;
10. the Trustee submitted the Proposal to the Superior Court of Ontario (Court) which issued an Order dated September 6, 2001, approving the Proposal unconditionally (Court Order);
11. the Proposal also provided that shareholder, court and other regulatory approvals would be required in addition to creditor approval;
12. under the Proposal, the Creditors will receive common shares of Sahelian, upon reorganization, at a price of \$0.02 per share and in a number equal to the ratio of \$0.10 for each dollar in proved claims; proved claims will be converted in Canadian dollars, where required, based on foreign exchange rates in effect at the end of day on July 20, 2001; the distribution of shares will be made by the Trustee pursuant to section 60(3) of BIA;
13. as a consequence of the Proposal and the proposed issuance of shares to the Creditors, all of its debts to the Creditors would be either compromised or settled;
14. it proposes, subject to appropriate regulatory approval, to undertake the following steps (Steps) in connection with the Proposal:
  - (a) obtain shareholder approval (Shareholder Approval) for the Share-for-Debt Exchange and the Private Placements, both as defined below;
  - (b) issue the number of Common Shares permitted under the Proposal to the Creditors who will have filed proof of claims, at a price of \$0.02 per share and in a number equal to the ratio of CDN\$0.10 for each Canadian dollar

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in proved claims, in full settlement of the debts owed to them (Share-for-Debt Exchange); and

- (c) issue Common Shares or other forms of securities which could include convertible promissory notes, to persons (the Purchasers) in order to raise total proceeds of up to \$300,000 by way of one or more private placements (the Private Placements);
15. proceeds from the Private Placements will be used solely to permit it to pay for:
- (a) the preparation of interim financial statements for the periods ended June 30, 2001, December 31, 2001 and March 31, 2002;
  - (b) the preparation and audit of annual financial statements for the periods ended September 30, 1999, September 30, 2000 and September 30, 2001;
  - (c) the services of legal counsel with regard to the Share-for-Debt Exchange, the Private Placements, this order, the partial revocation of the OSC cease trade order and the application referred to in section 16 below, if necessary;
  - (d) the preparation of a shareholder information circular and related proxy materials which will allow the shareholders to consider and approve at a meeting or by resolution the Share-for-Debt Exchange and the Private Placements;
  - (e) the mailing, by the transfer agent, of a shareholder information circular and related proxy materials to the shareholders which will allow them to consider and approve the Share-for-Debt Exchange and the Private Placements; and
  - (f) the services of the Trustee with regard with the Proposal and for the Trustee to complete its duties as described in sections 12 and 13 above;
16. before it, the Creditors and the Purchasers enter into the Steps, Sahelian will, if necessary, make a separate application to the securities regulatory authority or regulator (the Decision Makers) in each of Ontario and British Columbia under the Mutual Reliance Review System for Exemptive Relief Applications for a decision from the Decision Makers granting relief from the registration and prospectus requirements of the Legislation in connection with the Share-for-Debt Exchange and the Private Placements;
17. concurrent with the Share-for-Debt Exchange, the Creditors will receive:
- (a) a copy of the Cease Trade Order;

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- (b) a copy of this order; and
  - (c) written notice from Sahelian, in a form acceptable to the Executive Director, that all of its securities, including any and all Common Shares issued in connection with the Share-for-Debt Exchange, will remain subject to the Cease Trade Order following the Share-for-Debt Exchange;
- 18. prior to the Private Placements, the Purchasers will receive:
  - (a) a copy of the Cease Trade Order;
  - (b) a copy of this order; and
  - (c) written notice, in a form acceptable to the Executive Director, that all of Sahelian's securities, including any and all Common Shares issued in connection with the Private Placements, will remain subject to the Cease Trade Order following the Private Placements;
- 19. prior to the Private Placements, each of the Purchasers will be required to execute and return to Sahelian a form of acknowledgment in a form acceptable to the Executive Director;
- 20. it has applied for a partial revocation of the Cease Trade Order so as to permit it, the Creditors and the Purchasers to enter into the Steps on substantially the terms described in this order;
- 21. it is not considering, nor is it involved in any discussion relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing (collectively, an RTO);
- 22. following the completion of the Steps, it intends to make a further application for a full revocation of the Cease Trade Order so as to permit trading of the securities generally; it understands that the Commission may require that prospectus level disclosure about it, its business, affairs and future prospects (including disclosure relating to any RTO) is provided to its shareholders and placed on the public record;
- 23. the Common Shares were previously quoted on the Canadian Dealing Network; it has no securities, including debt securities, listed or quoted on any exchange or market; and
- 24. other than the Common Shares, it has no securities, including debt securities, outstanding.

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[para 4]

The Executive Director is satisfied that the following order is not prejudicial to the public interest.

[para 5]

Under section 171 of the Act, the Executive Director varies the Cease Trade Order solely to permit, as set out in paragraph 15, the following trades or acts in furtherance of trades:

1. the obtaining of Shareholder Approval;
2. the Share-for-Debt Exchange; and
3. the Private Placements;

pursuant to the terms and conditions of the Steps and as set out in this order.

April 8, 2002

Angela Huxham  
Director, Corporate Finance