

Citation: 2024 BCSECCOM 43

## **Settlement Agreement**

**John Michael Wisbey**

### ***Securities Act, RSBC 1996, c. 418***

¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and John Michael Wisbey (Mr. Wisbey) agree as follows:

#### **Agreed Statement of Facts**

##### ***Overview***

1. Mr. Wisbey did not disclose some of his trades and shareholdings accurately: (1) on the System for Electronic Disclosure by Insiders (SEDI), (2) through early warning reports and news releases, (3) with advance notice of his intention to distribute, or (4) in management information circulars.

##### ***Background***

2. Mr. Wisbey is a resident of Switzerland.
3. He has been a director of International Lithium Corp. (the Issuer) since 2017 and its CEO since 2018.
4. The Issuer is a junior mineral exploration company, with its shares listed on the TSX Venture and Frankfurt exchanges.
5. As a director or officer of the Issuer, Mr. Wisbey is an insider under section 1(1) of the Act and, as a director and the Chief Executive Officer of the Issuer, Mr. Wisbey is a reporting insider under section 1.1(1) of National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (NI 55-104).

##### ***Misconduct***

###### **Failure to File on SEDI**

6. As an insider, Mr. Wisbey was required, under section 87(2) of the Act, to file reports disclosing his ownership of the Issuer's securities, in accordance with the regulations.
7. Specifically, he was required to file insider reports on SEDI within five days of changes to his beneficial ownership of, or control or direction over, the Issuer's securities, as required by section 3.3 of NI 55-104 (the 5-Day Deadline).

8. Between January 2018 and May 2022, Mr. Wisbey engaged in 785 transactions involving the Issuer's securities that were required to be reported on SEDI, involving a total of 131,638,249 shares with a combined value (either the acquisition cost or proceeds of sale) of \$9,532,428. Of these shares, 55,163,689 shares were in respect of the issue of new shares to Mr. Wisbey or his pension fund for which he had either subscribed or exercised warrants which had a value of \$2,803,184.
9. Of those transactions, Mr. Wisbey:
  - (a) reported 138 transactions, involving 14,305,618 securities valued at \$2,833,772, later than the 5-Day Deadline, and
  - (b) failed to report at all 547 transactions, involving 65,962,071 securities valued at \$4,149,329.

#### Failure to File Early Warning Reports

10. Since February 2019, Mr. Wisbey has held 10% or more of the Issuer's common shares.
11. When Mr. Wisbey first acquired 10% or more of the Issuer's common shares, he filed the early warning report and news release required by section 5.2(1) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (NI 62-104).
12. However, Mr. Wisbey was not aware that after acquiring 10% of the Issuer's common shares the filing of early warning reports and news releases was required for every subsequent change of 2% up or down in shareholdings. As a result, he did not subsequently file any early warning reports or news releases required by section 5.2(2)(a) of NI 62-104 when, between February 2019 and February 2022, his shareholdings in the Issuer increased or decreased by an additional 2% on 10 occasions for transactions, involving 66,511,143 common shares valued at \$3,242,905.

#### Failure to Give Advance Notice of Intention to Distribute

13. Between July 2019 and December 2020, Mr. Wisbey frequently held 20% or more of the Issuer's common shares, but never exceeding 21.36%. This resulted from not including an inactive trading account which held approximately 2 million shares. As a result, he was deemed to be a "control person" under the definition in the Act.
14. A trade in a previously issued security of an issuer from the holdings of a control person is further deemed to be a "distribution" under the definition of the Act (Distribution From Control).

15. Under section 61 of the Act, a person must not distribute a security without a preliminary prospectus, a prospectus, and receipts issued by the Executive Director (the Prospectus Requirement), unless exempted.
16. Section 2.8 of National Instrument 45-102 *Resale of Securities* provides an exemption from the Prospectus Requirement for a Distribution From Control if the control person files a Form 45-102F1 *Notice of Intention to Distribute Securities under Section 2.8 of NI 45-102 Resale of Securities* (Notice of Intention to Distribute) at least seven days before the first trade occurs.
17. Mr. Wisbey did not file any Notices of Intention to Distribute. Had Mr. Wisbey filed Notices of Intention to Distribute on 49 occasions between July 2019 and December 2020, covering only one trade each (or on 9 occasions covering the following month's Intention to Distribute), his Distribution from Control, involving 10,119,000 common shares in the Issuer valued at \$465,100, would not have contravened section 61 of the Act.

#### False or Misleading Statement in a Required Filing

18. The Issuer filed management information circulars for its annual general meeting held in:
  - (a) December 2020, that incorrectly stated Mr. Wisbey held 26,519,178 of the Issuer's common shares as of the record date, when he actually held 27,750,435 (a variation of 0.93% of the then issued equity of 132,595,903 shares), and
  - (b) December 2021, that falsely stated Mr. Wisbey held 38,669,178 of the Issuer's common shares as of the record date, when he actually held 39,273,602 (a variation of 0.26% of the then issued equity of 235,857,043 shares).
19. By misstating Mr. Wisbey's holdings of its securities, the Issuer contravened the prohibition in section 168.1(1)(b) of the Act against making false or misleading statements in a required filing.
20. Mr. Wisbey authorized, permitted, or acquiesced in the contravention by the Issuer, and is therefore liable for it under section 168.2 of the Act.

#### **Factors Relevant to Settlement**

21. Mr. Wisbey fully cooperated with Staff. He has made the required SEDI filings and paid late fees of \$18,750.

22. Mr. Wisbey traded using accounts in his own name and in the name of his personal pension trustee company (registered on SEDI), with Canadian institutions. There is no evidence that he attempted to hide his trading in the Issuer's securities.

***Undertaking(s)***

23. Mr. Wisbey undertakes to pay \$80,000 to the British Columbia Securities Commission in respect of settlement of this matter which sum is due and payable immediately without further demand.

**Waiver**

¶ 2 Mr. Wisbey 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**

¶ 3 This Settlement Agreement may be signed in counterpart and all such counterparts of signed copies, whether delivered electronically or otherwise, shall be read or construed together as if they formed one originally executed document.

¶ 4 February 14, 2024

*John Michael Wisbey*

¶ 5 \_\_\_\_\_  
John Michael Wisbey

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Witness Signature )  
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Witness Name (please print) )  
\_\_\_\_\_  
\_\_\_\_\_  
Address )  
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Occupation )

¶ 6 2/16/2024 9:12 AM PST

*Peter J. Brady*

¶ 7 Peter J. Brady  
Executive Director