

# 2012 BCSECCOM 189

## Settlement Agreement

Narvinder Singh Patric Virk

*Securities Act, RSBC 1996, c. 418*

¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Narvinder Singh Patric Virk (Virk) agree as follows:

### **Agreed Statement of Facts**

#### ***Regulatory action***

1. Sungro Minerals Inc. (Sungro) is a reporting issuer under BC Instrument 51-509, *Issuers Quoted on the U.S. Over the Counter Markets*.
2. On July 29, 2009, the Executive Director issued a temporary order that all persons cease trading in the securities of Sungro and a notice of hearing under section 161 of the *Securities Act, RSBC 1996, c. 418 (Act)*.
3. On September 25, 2009, the British Columbia Securities Commission (Commission) extended the temporary order under section 161(3) of the Act until a hearing is held and a decision is rendered.
4. On August 8, 2011, the Executive Director issued an amended notice of hearing to name Virk and the following additional respondents: Malkeet Singh Bains (Bains), Mark Aaron McLeary (M. McLeary), Timothy John McLeary (T. McLeary), Robert Hailey (Hailey), Jerry Williams, and Erik John Benson (Benson).
5. Virk is a close friend of Bains and has known him for over 20 years. Virk is also a close friend of Karnjit Singh Bahd (Bahd).
6. Virk became friends with M. McLeary through Bains.
7. Benson is an investment advisor at Canaccord Genuity Corporation (Canaccord). At all material times, Benson was Virk's investment advisor. Benson became his investment advisor when his previous investment advisor left Canaccord in or about April 2009.

#### ***The plan to sell Virk's shares***

8. In or about September 2007, Bains told Virk that he and M. McLeary were starting a company called Sungro and needed 40 shareholders to get it started. Bains told Virk that their plan was to sell Sungro as a shell company for USD

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\$500,000. Bains told Virk that Bains would be the only official officer and director of Sungro, but that M. McLeary would be working behind the scenes making all key decisions.

9. In or about September 2007, Virk and his wife agreed to become Sungro seed shareholders investing USD \$2,375 each for 118,750 shares at USD \$0.02 per share.
10. At Bains' urging, Virk also persuaded a number of other individuals, who were each a close relative or friend, to talk to Bains about becoming seed shareholders in Sungro.
11. Bains eventually advised Virk that M. McLeary had told him that the market for shell companies had dropped considerably and he would be unable to sell Sungro as a shell. Bains advised Virk that their new plan was to sell as many seed shareholders' shares as possible and then split the proceeds.
12. Following Bains' request, Virk agreed to allow Bains to sell his Sungro shares as part of the new plan on the understanding that he would share in the sale proceeds as well.
13. In late January 2009, Bains gave Virk his Sungro share certificate and a letter that verified how Virk obtained the shares (OTC letter).
14. In February 2009, Bains instructed Virk to deposit his Sungro share certificate and the OTC letter with his investment advisor at Canaccord, which Virk did. Virk understood that Bains would instruct him on how and when to sell his Sungro shares
15. On or about February 19, 2009, Bains directed Virk to sell 30,000 Sungro shares at USD \$0.35 each, which Virk did. Virk's order was filled a few minutes later, netting USD \$10,000. Bains told Virk he could keep the proceeds.
16. Virk's investment advisor changed firms a few months later. The new firm would not accept Virk's remaining Sungro shares and other securities. Virk kept his Canaccord account active. The Sungro shares remained in the account and Benson became Virk's new investment advisor at Canaccord.
17. Between June 12, 2009 and June 22, 2009, Bains directed Virk to sell his remaining Sungro shares over a number of days, in a particular sequence, and at certain specified prices, all of which Virk did by entering the following

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orders through Benson:

DATE	TIME	SHARES	(US \$) PRICE	NOTES
12-Jun-09	8:36:31 am	50,000	\$0.45	Day order - expired
15-Jun-09	9:37:07 am	25,000	\$0.45	Filled
17-Jun-09	9:36:21 am	25,000	\$0.45	Filled
17-Jun-09	12:24:37 pm	20,000	\$0.90	Filled
18-Jun-09	7:17:08 am	5,000	\$2.00	Day order – filled
18-Jun-09	8:10:51 am	3,750	\$2.00	Day order - expired after 2,000 shares filled
19-Jun-09	12:25:59pm	1,750	\$2.00	Multiple order - filled
		2,500	\$2.25	Multiple order - filled
		2,500	\$2.50	Multiple order – filled
22-Jun-09	7:13:36 am	5,000	\$2.15	Filled
Total Sold		88,750		

18. When Virk entered the first order on June 12, 2009, Virk asked Benson at Bains' instructing to direct the trade through a particular market maker. Canaccord refused to do so.

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19. On June 15, 2009, and on Bains' instruction, Virk asked Benson to give Bains trading authority over his account. Benson advised against it.
20. Virk was aware that Bains had phone calls with Benson during the subsequent trading period.
21. On June 19, 2009, Virk accompanied Bains when he went to M. McLeary's office to pick up additional Sungro share certificates and then later dropped them off with Benson.
22. The net trading proceeds from the sale of Virk's Sungro shares in June 2009 was USD \$79,885.16.
23. On Bains' direction, Virk instructed Benson on June 24, 2009 to pay out the net trading proceeds to a currency exchange company, which Benson did. Virk understood that by doing so, M. McLeary would receive USD \$60,000 of the proceeds and Bains would receive the rest.
24. On June 25, 2009, Canaccord issued a cheque to the currency exchange company for USD \$79,885.16.
25. Virk never tried to sell his wife's Sungro shares when the share price was increasing dramatically in June 2009, as he was not directed to do so by Bains.
26. Some time between August and October 2009, after Bains, M. McLeary, Virk and Bahd received witness summonses from the Commission in this matter, they met in a pub in North Vancouver. At the meeting, M. McLeary counseled Virk and Bahd to say they did their own trades during the period in question at their Commission interviews. If Virk and Bahd did so, M. McLeary said "they've got nothing on us".

### ***Misconduct***

27. By engaging in the above conduct, Virk, directly or indirectly, engaged in or participated in conduct relating to Sungro's shares that he reasonably should have known, resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, Sungro shares, contrary to section 57(a) of the Act.

### ***Public Interest***

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

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### *Undertaking*

29. In settlement of this matter, Virk undertakes to pay \$100,000 to the Commission, which sum is due and payable immediately without further demand.

### **Order**

- ¶ 2 The Executive Director will issue an order (the Order) that:
1. under section 161(1)(b) of the Act, Virk will be prohibited from purchasing or trading in securities, except that he may purchase and trade through such RRSP accounts as he may hold in his own name as at the date of this settlement through a registered representative, provided he first gives a copy of the Order to the registered representative through which he makes a purchase or trade;
  2. under section 161(1)(d)(ii), Virk will be prohibited from becoming or acting as an officer or a director of any issuer;
  3. under section 161(1)(d)(iii), Virk will be prohibited from becoming or acting as a promoter;
  4. under section 161(1)(d)(iv), Virk will be prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
  5. under section 161(1)(d)(v), Virk will be prohibited from engaging in investor relations activities;

for a period of 25 years from the date of the Order.

### **Consent to orders by other securities regulatory authorities**

- ¶ 3 Virk consents to a regulatory Order made by any province or territorial securities regulatory authority in Canada containing any or all the sanctions set out in paragraph 2 above.

### **Waiver**

- ¶ 4 Virk 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.

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### 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 May 18, 2012

¶ 7     Narvinder Singh Patric Virk      
Narvinder Singh Patric Virk

    Lisa Ridgdale     )  
Witness Signature )  
    Lisa Ridgdale     )  
Witness Name (please print) )  
    1500 – 885 West Georgia St.     )  
Address )  
    Lawyer     )  
Occupation )

¶ 8 May 18, 2012

Paul C. Bourque

¶ 9 \_\_\_\_\_  
Paul C. Bourque, Q.C.  
Executive Director