

**IN THE MATTER OF**  
***THE SECURITIES ACT, 1988, S.S. 1988, c. S-42.2***  
**AND**  
**IN THE MATTER OF**  
**I.W.F. INCORPORATED ALSO KNOWN AS I.W.F. INC.**  
**KEYSTONE EXPLORATIONS**  
**GLOBAL CAPITAL AND ASSET MANAGEMENT**  
**JACK SHORE**

**DECISION**

**Hearing held:** July 10, 2013

**Before:** Peter Carton, Panel Chairperson  
Derrek Fahl  
Paul Robinson  
(collectively referred to as “the panel”).

**Appearances:** Dallas Smith, representing staff of the Financial and Consumer  
Affairs Authority of Saskatchewan

No appearance by I.W.F. Incorporated, Keystone Explorations,  
Global Capital and Asset Management or Jack Shore

**Decision dated:** August 30, 2013

**Background :**

In a “Statement of Allegations of Staff of the Financial and Consumer Affairs Authority of Saskatchewan” dated May 17, 2013, the Staff alleged that:

I.W.F. Incorporated (I.W.F.), Keystone Explorations (Keystone), Global Capital and Asset Management (Global Capital) and Jack Shore (collectively, the Respondents) contravened the following provisions of *The Securities Act, 1988* (S.S., 1988-89 c. S-42.2) (the Act):

- a. subsection 27(2)(a), acting as dealers in Saskatchewan while not registered to do so;
- b. subsection 58(1), trading in a security where the security would be a distribution while no preliminary prospectus or prospectus relating to the distribution has been filed and no receipt issued for the same;
- c. subsection 27(2)(b), acting as advisors in Saskatchewan while not registered to do so;
- d. subsection 55.1(a), directly or indirectly engaging or participating in any act, practice or course of action relating to securities or exchange contracts that a person or company knows or reasonably ought to know results or contributes to a misleading appearance of trading activity in or an artificial price for, a security or exchange contract; and
- e. subsection 55.11(1), making statements while they know or reasonably ought to know that such statements are misleading or untrue in material respects in light of the circumstances under which they were made, and while such statements would reasonably be expected to have a significant effect on the market price or value of a security or exchange contract.

The purpose of this hearing was to consider whether it is in the public interest to make an order that:

- a. pursuant to subsection 134(1)(a) of the Act, the exemptions in Saskatchewan securities laws do not apply to the Respondents;
- b. pursuant to subsection 134(1)(d) of the Act, the Respondents shall cease trading in any securities or exchange contracts in Saskatchewan;
- c. pursuant to subsection 134(1)(d.1) of the Act, the Respondents shall cease acquiring securities for and on behalf of residents of Saskatchewan;
- d. pursuant to subsection 134(1)(e) of the Act, the Respondents shall cease giving advice respecting securities, trades or exchange contracts in Saskatchewan;
- e. pursuant to section 135.1 of the Act, the Respondents shall pay an administrative penalty of \$15,000;

- f. pursuant to section 135.6 of the Act, the Respondents shall pay financial compensation to the Saskatchewan investor for financial loss, in the amount of \$5,000; and
- g. pursuant to section 161 of the Act, the Respondents shall pay the costs of and related to the hearing of this matter, in an amount that is to be taxed.

### **Preliminary Matters**

Ms Smith provided the panel with the following documents along with sworn Affidavits of service:

- Temporary Cease Trade order dated January 31, 2011
- Extending orders dated February 10, 2011
- Extending order dated September 8, 2011
- Extending order dated August 10, 2012
- Extending order dated February 14, 2013
- Notice of Hearing dated June 24, 2013

Ms. Smith advised the panel that the service requirements of the Act had not been satisfied because the notice dated June 24, 2013 was not sent by registered mail until June 27, 2013 so that only 7 business days notice of the hearing rather than the 10 days notice required by the Act was provided to the Respondents. She further advised that the Respondents had not responded to any of the previous notices or orders issued by the Financial and Consumer Affairs Authority of Saskatchewan (the Authority). The panel adjourned to consider the matter.

After considering the matter, the panel advised Ms. Smith that the failure to provide the required notice had placed the panel in an awkward position and that it was predisposed to adjourn the hearing.. However, in view of the Respondents failure to respond to previous orders and notices and in the interests of efficient administration, the panel had determined that it was in the public interest to proceed with the hearing. The panel noted that if the Respondents replied to the Notice of Hearing within the 10 day period, it would be inclined to consider any evidence or representations the Respondents might choose to make.

### **Evidence Presented to the Panel:**

The panel was presented evidence by a Saskatchewan investor who testified that :

1. In 2010, he began receiving telephone calls and emails from Jack Shore (Shore), asking him to buy shares in Keystone. Shore told him he was Keystone's Investor Relations Manager. I.W.F. was said to be the parent company of Keystone.

2. Shore told the investor that he was being given a 'one of a kind opportunity' to invest in Keystone's gold mining project in Mexico. He was told the permits were in place, things were already developing, and Keystone and I.W.F. were in the process of going public. While Shore did not guarantee that the shares would be listed on an exchange, he did state that they should be listed at a later date.
3. Shore recommended that the investor purchase at least \$10,000 worth of shares at 5 cents per share. When they two spoke on the phone on December 10, 2010, Shore stated that this was the last day Shore could get this price for the shares; after this date the price would increase. Shore told the investor that the shares would pay dividends within a year or so. He also stated that the value of shares could go to \$5.00 or \$10.00 per share, and he could sell them on the market.
4. Based on information received from Shore, the investor purchased \$5,000 worth of I.W.F. shares, and received confirmation of his purchase from I.W.F..
5. Prior to purchasing the shares, the investor indicated to Shore that he was not sure whether or not he was an Accredited Investor. Shore's response was that they could work around this. Shore did not ask for nor did the investor provide him with any financial statements nor did he take any other action to determine whether or not the investor met the threshold for an Accredited Investor.
6. After his initial purchase of shares, the investor received numerous phone calls from Shore, requesting that he increase his purchase to the full \$10,000 recommended. He decided against investing any further sums of money, and advised Shore of this decision.
7. The investor has had no contact from Shore or anyone else at Keystone or I.W.F. from early 2011 to the date of the hearing. He also had not received his principal amount of his investment or any other investment returns as of July 10, 2013.

The panel also heard evidence from witness Kenneth Foster (Foster) , an investigator with the Authority. Foster testified that:

1. He was the lead investigator in relation to this matter. He commenced investigation into the activities of the Respondents in early 2011, after being contacted by the Saskatchewan investor
2. In the course of his investigation, he learned that I.W.F. was a business corporation incorporated in the country of Belize that had sold nearly \$2,000,000 worth of shares to residents of Canada and the U.S.A. He also learned that there was the only one Saskatchewan investor involved with the Respondent.
3. He could not obtain any corporate records of Keystone or Global Capital.

4. During his investigation, He obtained information on I.W.F. and Keystone from the internet and other online resources, as well as from investors outside of Saskatchewan, and also securities regulators in Belize.
5. He compared the information contained in I.W.F. and Keystone's documents and on the Keystone website with documents created or disseminated by legitimate business corporations. It appeared to Foster that I.W.F. and Keystone had copied a large portion of the contents of their websites from the document of a legitimate business by placing Keystone's name in place of the legitimate business' name in most instances. In some instances it appeared that the original name had been inadvertently left in.
6. He was unable to conclusively determine who was behind the incorporation of I.W.F..
7. He followed up with a number of leads to determine the legitimacy of I.W.F. and Keystone's business. He was unable to find any evidence that I.W.F. had a lode claim in Nevada or to verify the credentials attributed to Robert John Smith (P. Geo) on Keystone's website. Upon reviewing banking records for I.W.F., provided by securities regulators in Belize, Foster concluded that there was no evidence of transactions that would be typical of a mining operation. The majority of the funds that came into the account were loaded onto a MasterCard for which detailed records could not be obtained.
8. None of the Respondents has ever been registered with the Authority in any capacity. Foster was not aware of any exemptions that may be applicable to the Respondents, and the Respondents have not made any filings to indicate that they were claiming any exemptions. The corporate Respondents have not been issued any receipts by the Director of the Securities Division of the Authority.

#### **Analysis of the Evidence:**

The panel considered each of the alleged violations of the Act:

#### **Acting as dealers in Saskatchewan while not registered to do so, contrary to subsection 27(2)(a) of the Act.**

The panel heard testimony from the Saskatchewan investor who bought shares in I.W.F. through their agents, Global Capital and Jack Shore. During the hearing the panel advised Ms. Smith that it had concluded that the I.W.F. shares purchased by the Saskatchewan investor are securities as defined by the Act. The panel also concluded that the Respondents traded in securities when they solicited and then sold these shares for valuable consideration.

Foster testified that none of the Respondents have ever been registered with FCAA in any capacity. The panel concluded that when the Respondents engaged in the business of

trading in securities in Saskatchewan, they did so while not registered as dealers, in direct contravention of subsection 27(2)(a) of the Act.

**Trading in a security where the trade would be a distribution while no prospectus relating to the distribution has been filed and no receipt issued for the same, contrary to subsection 58(1) of the Act.**

The panel concluded that the issuance of I.W.F. shares to the Saskatchewan investor was a distribution of shares.

Foster testified that the Respondents have not filed a prospectus with the Authority. The panel concluded the Respondents contravened subsection 58(1) of the Act when they engaged in the trade with the Saskatchewan investor which resulted in the issuance of his I.W.F. shares.

**Is the contravention of subsection 58(1) of the Act saved by an exemption under National Instrument 45-106 (NI 45-106)?**

NI 45-106 provides an exemption from the prospectus requirements of the Act in subsection 58(1) if securities are sold to “accredited investors”. The onus is on the distributor of the securities or his agent to make a diligent determination as to whether or not the prospective investor qualifies as an accredited investor and to file a confirmation of any trade with the Authority.

Evidence given by the Saskatchewan investor led the panel to believe that he was not clear what an accredited investor was and nor did he qualify as one. The evidence showed that the Respondents made only a perfunctory attempt to determine the Saskatchewan investor’s ability to qualify as an accredited investor and did not file any confirmation of a trade with the Authority. The panel concluded that an exemption under NI 45-106 is not available to the respondents.

**Acting as advisors in Saskatchewan while not registered to do so, contrary to subsection 27(2)(b) of the Act.**

The Saskatchewan investor testified that Shore had recommended on numerous occasions that that he purchase the I.W.F. shares. The panel determined that the phrase making a recommendation to purchase a security is synonymous to the phrase giving advice to purchase a security. The panel concluded that by recommending that the investor purchase I.W.F. securities, Shore was acting as an advisor.

Foster testified that the Respondents have never been registered in any capacity with the Authority.

The panel concluded that the Respondents contravened subsection 27(2)(b) of the Act when they engaged in the business of advising in the investment in or purchase of I.W.F. shares.

**Directly or indirectly engaging or participating in any act, practice or course of action relating to securities or exchange contracts that a person or company knows or reasonably ought to know results or contributes to a misleading appearance of trading activity in or an artificial price for, a security or exchange contract thus breaching subsection 55.1(a) of the Act.**

Conclusive evidence was not presented to the panel on this matter. Counsel for the Staff conceded that the evidence presented at the hearing did not justify a finding that the allegation of a breach of subsection 55.1(a) of the Act has been established.

**Making statements while they knew or reasonably ought to have known that such statements were misleading or untrue in material respects in light of the circumstances under which they were made, and while such statements would reasonably be expected to have a significant effect on the market price or value of a security or exchange contract, contrary to subsection 55.11(1) of the Act.**

Evidence was presented during the hearing of many statements made by the respondents which were untrue at the time they were made. The panel determined that the statements were made with the intention of having investors believe that Keystone and I.W.F. carried on a legitimate mining business, poised for success, with the potential to provide returns on any funds invested. The panel further conclude that the Respondents provided the Saskatchewan investor with this false information, to induce him to pay higher price for the shares than they were worth and thus contravened subsection 55.11(1) of the Act.

### **Analysis of the Relief Requested by Staff**

Staff requested that the Respondents be permanently prohibited from:

- (i) trading in securities and exchange contracts with residents of Saskatchewan,
- (ii) advising residents of Saskatchewan with respect to any securities, trades or exchange contracts, and
- (iii) using any of the exemptions in Saskatchewan securities laws to undertake these activities.

The respondents did not respond to the Notice of Hearing and did not attend the hearing to dispute the allegations against them. The Respondents are not residents of Saskatchewan and their livelihoods do not depend on doing business in the Province. In addition, the whereabouts of Shore is unknown. In similar circumstances such as *Gold Vault Metals, L.L.C et al* and *Seisma Oil Research L.L.C. et al*, panels have ordered permanent prohibitions and the panel believes that a permanent prohibition is appropriate in this case.

Staff requested that the panel impose an administrative penalty of \$15,000 against the Respondents. Counsel argued that the conduct of the Respondents was serious and that this was not a case of an innocent infraction or a technical breach of the Act. Counsel further

argued that the evidence suggests that I.W.F. was incorporated using stolen identification and forged documents and that the Respondents made false and misleading statements to the Saskatchewan investor. Counsel acknowledged that losses suffered by Saskatchewan investors were minimal but this was due to the swift and effective action of Authority staff to alert investors. Counsel further argued that the dishonest manner in which the Respondents attempted to obtain money from the Saskatchewan investor called for a harsh general deterrence. Counsel drew the Panel's attention to the administrative penalties imposed by Panels in *Gold Vault Metals, West African Industries et al* and to the sanctions imposed in the settlement agreement in the matter of *Snowcastle Estates*.

After reviewing the facts of each of the precedents cited and the reasoning behind the staff's request for a \$15,000 administrative penalty, the panel concluded that an administrative penalty of \$15,000 was appropriate.

Staff also requested that the Respondents pay financial compensation to the Saskatchewan investor. The investor testified that he was knowledgeable about mining ventures and that he had inquired about a geologists report and was advised that one did not exist. The investor demonstrated prudence by making only a small investment and by not responding to persistent requests for additional funds from Shore. He admitted that he had not asked some key questions such as demanding to see proof of title to the land and had not talked to a financial advisor about the proposal. The panel concluded that the respondents should pay financial compensation to the Saskatchewan investor in the amount of \$5,000.

Pursuant to section 161 of the Act, the staff requested that the Respondents should pay the costs of and related to the hearing. The panel has determined that this request is appropriate and will award those costs identified in Section 161(2) of the Act and Subsection 1(7) of Appendix A of Regulation 1 that would not have been incurred but for the wrongful acts of the Respondents.

#### **Decision of the Panel:**

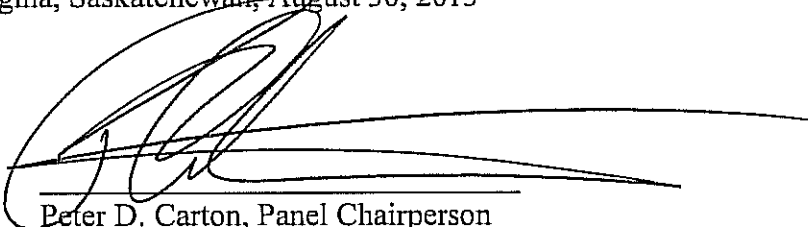
Based on the evidence presented, the panel has determined that it is in the public interest to order that:

1. The exemptions in Saskatchewan securities law do not apply to the Respondents.
2. The Respondents cease trading in all securities and exchange contracts with residents of Saskatchewan.
3. The Respondents cease advising residents of Saskatchewan with respect to any securities, trades or exchange contracts.
4. The Respondents pay an administrative penalty of \$15,000.

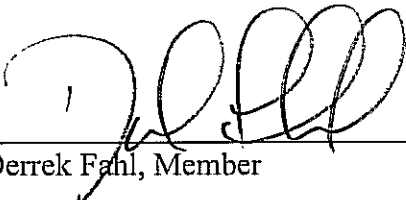


5. The respondents shall pay financial compensation to the Saskatchewan investor for financial loss, in the amount of \$5,000 and
6. The respondents shall pay the costs of and related to the hearing of this matter, in an amount that is to be determined by the panel.

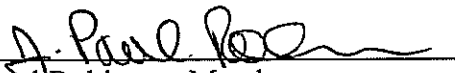
Dated at Regina, Saskatchewan, ~~August 30, 2013~~



Peter D. Carton, Panel Chairperson



Derrek Fahl, Member



Paul Robinson, Member