

ALBERTA SECURITIES COMMISSION

Citation: Re Thor, 2019 ABASC 89

Docket: ENF-011290

Date: 20190531

**SETTLEMENT AGREEMENT
AND UNDERTAKING**

Henry Ian Thor (**Thor**)

Agreed Facts

Introduction

1. Staff of the Alberta Securities Commission (**Staff** and **Commission**, respectively) conducted an investigation into Thor to determine if Alberta securities laws had been breached.
2. The investigation confirmed, and Thor admits that he breached those sections of the *Securities Act*, R.S.A. 2000, c. S-4, as amended, (the *Act*), referred to in this Settlement Agreement and Undertaking (**Agreement**), and that he acted contrary to the public interest.
3. Solely for securities regulatory purposes in Alberta and elsewhere, and as the basis for the settlement and undertakings referred to in paragraph 17 and for no other use or purpose, Thor agrees to the facts and consequences set out in this Agreement.
4. Terms used in this Agreement have the same meaning as provided in the Alberta securities laws, a defined term in the *Act*.

Parties

5. Thor is a resident of Edmonton, Alberta. At all relevant times, Thor was registered to trade in securities, and worked as a Registered Representative at a financial services firm.

Circumstances

6. Gerald Michael Budzinski (**Budzinski**) is a resident of Edmonton, Alberta.

7. Between August 31, 2015 and June 7, 2016 (**Relevant Trading Period**), Budzinski exercised trading authority over accounts at Raymond James Ltd. (**Raymond James**) set up for a number of other individuals and entities (the **Investors**).
8. As a Registered Representative at Raymond James during the Relevant Trading Period, Thor received instructions from Budzinski and carried out purchases in the Investors' accounts over which Budzinski had trading authority. Budzinski instructed Thor to purchase on behalf of the Investors shares in BCM Resources Corporation (**BCM**), a Vancouver-based mineral exploration company whose securities trade on the TSX Venture Exchange (**TSX-V**).
9. During the Relevant Trading Period, Budzinski regularly directed Thor to enter bids for BCM shares near the end of the trading day that would match an offer price higher than the last trade that occurred that day, resulting in a high close. Thor, or others working at his direction, complied with these instructions on at least some occasions. As a result, at least 25 high close transactions took place in the Investors' accounts during the Relevant Trading Period.

Trade Date	Trade Time	Price	Volume	Tick Value ¹	Name of Target Account	Target Account's Daily Buy Vol
2016-01-21	15:58:02.320	0.205	1000	0.005	H. P.	45,000
2016-02-19	15:56:49.472	0.20	11500	0.005	Malachi 4 - Fdn (Option)	35,000
2016-02-26	15:57:34.827	0.20	10000	0.005	Freedom Investors	20,000
2016-03-02	15:56:39.698	0.20	10000	0.015	Freedom Investors	15,000
2016-03-03	15:57:21.046	0.205	1000	0.005	Malachi 4 - Fdn (Option)	23,000
2016-03-15	15:52:01.984	0.225	5000	0.015	Malachi 4 - Fdn (Option)	51,000
2016-03-17	15:53:05.394	0.23	2500	0.01	Malachi 4 - Fdn (Option)	25,000
2016-03-18	15:55:14.254	0.235	5000	0.005	Malachi 4 - Fdn (Option)	15,000
2016-03-23	15:57:20.195	0.235	9000	0.015	Freedom Investors	14,000
2016-03-31	15:51:53.368	0.235	5000	0.005	Malachi 4 - Fdn (Option)	30,000
2016-04-04	15:55:38.587	0.235	2000	0.005	Malachi 4 - Fdn (Option)	25,000
2016-04-05	15:54:42.605	0.245	5000	0.005	Freedom Investors	35,000
2016-04-08	15:55:03.648	0.25	8000	0.005	Malachi 4 - Fdn (Option)	20,000
2016-04-12	15:55:34.501	0.24	9500	0.015	Freedom Investors	20,000
2016-04-13	15:19:21.713	0.235	9000	0.01	Malachi 4 - Fdn (Option)	25,000
2016-04-14	15:58:19.823	0.245	5000	0.005	Malachi 4 - Fdn (Option)	32,500
2016-04-15	15:49:06.711	0.28	4500	0.01	Malachi 4 - Fdn (Option)	14,500
2016-04-18	15:55:30.926	0.275	4000	0.005	Malachi 4 - Fdn (Cash)	10,000
2016-04-21	15:58:19.229	0.29	10000	0.015	Malachi 4 - Fdn (Cash)	10,000
2016-05-06	15:58:18.132	0.31	2000	0.01	Malachi 4 - Fdn (Cash)	3,500
2016-05-20	15:58:12.606	0.30	1000	0.025	Malachi 4 - Fdn (Cash)	10,000
2016-05-25	15:59:26.222	0.29	6000	0.005	Malachi 4 - Fdn (Cash)	15,000

¹ Tick value is the difference in price over the previous trade.

Trade Date	Trade Time	Price	Volume	Tick Value ¹	Name of Target Account	Target Account's Daily Buy Vol
2016-05-30	15:20:13.730	0.26	2000	0.005	Malachi 4 - Fdn (Cash)	16,000
2016-05-31	15:53:47.869	0.30	500	0.04	Malachi 4 - Fdn (Cash)	17,000
2016-06-07	15:25:07.292	0.25	500	0.02	Malachi 4 - Fdn (Cash)	20,000

10. In a number of other cases during the Relevant Trading Period, Budzinski entered through Thor, late in the trading day, bids that were below an available offer, but higher than the previous highest bid, causing an uptick of the bid price for BCM shares. These bids were as follows:

Date	Time	Price	Volume	Bid-Ask ² (Before Order)	Bid-Ask (After Order) ³	Increase in Bid
2016-04-29	15:59:20.305	0.25	2000	0.24 - 0.28	0.25 - 0.28	0.01
2016-05-05	15:58:38.201	0.29	5000	0.28 - 0.30	0.29 - 0.30	0.01
2016-05-17	15:59:32.229	0.28	500	0.24 - 0.295	0.28 - 0.295	0.04
2016-05-20	15:58:14.842	0.265	500	0.245 - 0.30	0.265 - 0.30	0.02
2016-05-31	15:59:27.139	0.26	500	0.235 - 0.30	0.26 - 0.30	0.025

11. The practice of repeatedly entering high bids late in the trading day, leading to high close trades or uptick bid prices, is a manipulative strategy. The placing and the timing of such bids are driven not by *bona fide* trading motives, but a desire to influence other traders by creating the impression a stock did well in trading during the day. Such trades are intended to raise the closing trade price or bid price from what it would be under the ordinary operation of supply and demand for a security.
12. Thor ought to have known that the high close purchases and uptick bids may result in or contribute to a false or misleading appearance of trading activity in BCM securities and an artificial price for BCM securities.

Admitted Breaches of Alberta Securities Laws (Admitted Breaches)

13. Based on the Agreed Facts, Thor admits he breached section 93(a) of the *Act* by directly or indirectly engaging or participating, or attempting to engage or participate, in an act, practice or course of conduct related to a security that he reasonably ought to have known may result in or contribute to a false or misleading appearance of trading activity in a security and an artificial price for a security.

² The spread between the maximum price a buyer is willing to pay and the minimum price a seller is willing to receive.

³ The difference between the Before Order and After Order columns show the change in the bid-ask spread following the bids in question.

Circumstances Relevant to Settlement

14. Thor has not been previously sanctioned by the Commission.
15. Thor cooperated with Staff during the investigation.
16. This Agreement has saved the Commission the time and expense associated with a contested hearing under the *Act*.

Settlement and Undertakings

17. Based on the Agreed Facts and Admitted Breaches, Thor agrees and undertakes to the Executive Director of the Commission to:
 - 17.1 pay a monetary settlement amount of \$30,000;
 - 17.2 pay \$10,000 for investigation costs; and
 - 17.3 be prohibited for a period of four years from the date of the execution of this Agreement from trading in or purchasing any securities or derivatives, except trades or purchases made for the sole benefit of one or more of Thor, his spouse, and his dependent children, provided that any brokerage company used to facilitate such trades or purchases shall first be provided with a copy of this Settlement Agreement and Undertaking.

Administration

18. Thor acknowledges that he received independent legal advice and has voluntarily made the admissions and undertakings in this Agreement.
19. Thor waives any right existing under the *Act*, or otherwise, to a hearing, review, judicial review or appeal of this matter.
20. Thor acknowledges and agrees that the Commission may enforce this Agreement in the Court of Queen's Bench or in any other court of competent jurisdiction.
21. Thor understands and acknowledges that this Agreement may form the basis for securities-related orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow for provisions of a settlement agreement made in this matter to be given parallel effect in those other jurisdictions automatically, without further notice to him. Thor understands and acknowledges that he should contact the securities regulator of any other jurisdiction in which he may intend to engage in any securities related activities.
22. Execution and fulfillment of the terms of this Agreement by Thor resolves all issues involving Thor relating to the conduct described above, and Staff will take no further steps against him arising from these facts.

23. This Agreement may be executed in counterpart.

Signed by Henry Ian Thor at Edmonton,)
Alberta this 15 day of May 2019, in the)
presence of:)

_____)
WITNESS NAME)
WITNESS NAME)

_____)
“Original signed by”)
SIGNATURE)

_____)
“Original signed by”)
Henry Ian Thor)

) ALBERTA SECURITIES COMMISSION
)

Calgary, Alberta, May 31, 2019)

) *“Original signed by”*)
_____)
) David C. Linder, Q.C.)
) Executive Director)