

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, AS AMENDED**

AND

**ROBERT PATRICK ZUK, DANE ALAN WALTON
DEREK REID, IVAN DJORDJEVIC,
and MATTHEW NOAH COLEMAN**

**SETTLEMENT AGREEMENT BETWEEN
DANE ALAN WALTON AND
STAFF OF THE ONTARIO SECURITIES COMMISSION**

I. INTRODUCTION

1. By Notice of Hearing dated April 17, 2007, the Commission announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “*Act*”), it is in the public interest for the Commission to make an order approving the settlement agreement entered into between Staff of the Commission and the respondent Dane Alan Walton.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with Dane Alan Walton (also referred to hereafter as the “Respondent”) in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part III herein and consents to the making of an Order in the form attached as Schedule “A” on the basis of the facts set out in Part III herein.

3. The terms of this settlement agreement, including the attached Schedule “A” (collectively, the “Settlement Agreement”) will be released to the public only if and when the Settlement Agreement is approved by the Commission.

III. AGREED FACTS

4. For the purposes of this settlement agreement only, the Respondent agrees with the facts set out in Part III of this agreement.

(a) Background

5. Visa Gold Explorations Inc. (“Visa Gold”) was a reporting issuer that was involved in the recovery of underwater artefacts. Trading in Visa Gold’s shares was first reported on the Canadian Dealing Network (“CDN”) on August 25, 1999. Visa Gold common shares traded over the counter and were quoted on the CDN until October 10, 2000, when Visa Gold shares began trading on the CDNX. Visa Gold shares continued to trade on the CDNX until December 19, 2002 when trading in Visa Gold’s shares was suspended. Visa Gold’s shares were cease traded on May 28, 2003 and remain cease traded.

6. Robert Patrick Zuk (“Zuk”) is a resident of Toronto, Ontario. He is a stock promoter who, at all material times and to the Respondent’s knowledge, was an active trader of Visa Gold shares and was involved in generating trading interest in Visa Gold shares. Zuk had business and personal relationships of many years’ duration with the Respondent.

7. The respondent Dane Alan Walton (“Walton”) is a trader who, at all material times, was employed by Taurus Capital Markets Limited (“Taurus”). Walton was the Manager of Trading and, in that capacity, supervised the other traders at Taurus. Walton is currently registered as a salesperson at Canaccord Capital Corporation, subject to the term and condition that he is restricted to trading by means of Computer Assisted Trading System (CATS) only.

8. Taurus applied to be a market maker for Visa Gold and was approved as such by the CDN. The day-to-day market making function at Taurus was performed by individuals at the trading desk at Taurus, including the Respondent, and others who were supervised by the Respondent. Individuals at three other registered dealers also acted as market makers for Visa Gold. The Taurus traders were compensated by a share of the trading profits in the firm's inventory account (the "Taurus Inventory Account"). The Respondent received a larger share of the trading profits due to his position of Manager of Trading.

(b) Background of Visa Gold and of Zuk's Shareholding in Visa Gold

9. Visa Gold originated as a privately-held company. In February 1998, Visa Gold entered into a joint venture agreement with a Cuban state-owned entity to explore historic shipwrecks and recover artefacts within Cuba's territorial waters. Visa Gold became a public company on or about August 25, 1999, and its trades were reported to the public on the CDN and subsequently, the CDNX.

(c) Trading Activity in Visa Gold shares

10. Through his position as the Manager of Trading and as a trader, the Respondent was aware that Zuk was an active trader and promoter of Visa Gold shares. From time to time, Zuk would call the Respondent and others under the Respondent's supervision at the Taurus trading desk and advise the traders of possible upcoming purchases or sales of Visa Gold shares.

11. In the period between August 1999 and November 2001, the Taurus Inventory Account acted as purchaser in 11 trades at a price higher than the last reported trade and 4 trades that resulted in a high closing price for Visa Gold shares. Staff of the Commission have disclosed a trading analysis to the Respondent which indicates that the Taurus Inventory Account supplied Visa Gold shares for 23 trades at a price higher than the last reported trade and 3 trades that resulted in a high closing price for Visa Gold shares, where an account shown to be controlled by Zuk was the purchaser. The Respondent

was aware that if a pattern develops of up-ticking or high closing a stock, this can affect the market price of the stock.

12. The Taurus Inventory Account also entered into 12 sets of trades that were arranged through Zuk. For 9 of the 12 sets of trades, there was at least one purchase by the Taurus Inventory Account that was marked for next day settlement (the “special term trades”). In all 9 instances, the Taurus Inventory Account bought a large number of Visa Gold shares (on average, 230,000 shares), in effect providing the client on the other side of the trade with a significant cash position the following day. The offsetting trade for the Taurus Inventory Account, which disposed of the same number of shares for ordinary settlement terms, was entered at or around the same time as the purchase transaction. The total profit to the inventory account for the 9 trades was \$25,855.00. There was little risk, if any, to the Taurus Inventory Account in not being able to offset the position when the required offsetting transactions had taken place prior to, or commensurate with, the special terms trade.

13. Although the client selling shares for next day settlement could expect to accept a discount to the posted best bid for the Visa Gold shares, the prices of the transactions within the 9 sets of trades instead occurred between the posted bid and offer price. The pricing of these 9 sets of trades, if done outside of the posted market, would have allowed other market participants to discern that a special term trade had been reported and that they may have been in a position to profit from a market maker having to offset its position.

14. These trades involving the Taurus Inventory Accounts were used to facilitate the transfer of positions between accounts controlled by Zuk. Staff of the Commission have disclosed a trading analysis which indicates that the offsetting buyer and seller in each of the 12 sets of trades with the Taurus Inventory Accounts were accounts associated with Zuk. The Respondent should have been aware that these recurring trades could assist a significant shareholder in accessing cash to cover debit balances, on a temporary basis, that were being re-established elsewhere.

15. The effect of the trades was that they did not contribute to the overall liquidity of the market for the shares of Visa Gold and market participants may have been denied information as to the true nature of the orders and thereby been denied information that would have helped other participants make informed decisions about their trading strategies.

16. Some of the Uptick Trades and High Close Trades in which the Taurus Inventory Account was involved caused an upward pressure on the price of Visa Gold's shares. The large volume trades described in paragraphs 12 to 14 contributed to an appearance of trading interest in Visa Gold shares. The Respondent ought to have known that these were likely outcomes.

17. In addition, on at least 9 occasions, the Taurus Inventory Account was involved in month end trades in which large share positions in Visa Gold were traded, with reversing trades occurring a number of days later after the month end. One or both of the initial trades and the reversing trades were reported to the public through the market. This trading showed a higher volume for Visa Gold trading than was reflective of an arm's length market.

18. The Respondent conducted some but not all of the trades described above. As the manager of trading, he ought to have made inquiries of the trader who conducted the other trades.

19. The Respondent did not receive the entire profit from the trades described in paragraph 12 above, but rather shared those profits with 2 other traders. Those trades generated a personal profit of approximately \$9,000 for the Respondent.

(d) Market price of Visa Gold shares

20. At the commencement of public trading, the common shares of Visa Gold were trading in the range of \$1.50-\$1.70 per share on August 25, 1999. The stock peaked at

\$2.05 per share on September 9, 1999. Other than this initial price increase and a short-lived increase in February 2000, during the period when the Respondent was a market maker, the shares of Visa Gold did not increase or decline precipitously and traded within relatively narrow price bands for extended periods.

IV. THE RESPONDENT'S POSITION

21. The Respondent is 41 years of age. He has been married for 11 years and has 4 children but is currently going through a separation.

22. The Respondent has been under supervision for approximately 4 years since the investigation leading to this proceeding was commenced. The effect is that the Respondent has not been able to take any managerial positions which would have allowed him to earn a higher income than he has for the last 4 years. There is no suggestion that his conduct during his period of supervision was in any way contrary to the public interest. The settlement herein takes into account that the Respondent was subject to this supervision.

23. The Respondent is not currently in a financial position to make a disgorgement or costs payment to the Commission.

24. The Respondent acknowledges liability because of a failure to exercise due diligence in his position as a trader and a manager with respect to the trading of Visa Gold shares. The Respondent did not, however, have any direct knowledge of Zuk's intentions. During the relevant period the Respondent and others on the Taurus trading desk were involved in numerous other trades not related to Visa Gold Shares, which was among one of many stocks in which the Respondent traded. The Respondent was involved in a very busy trading desk over the relevant time frame. The Respondent's failing was not in exercising due diligence over the trades for which he was a Visa Gold market maker.

V. CONDUCT CONTRARY TO THE PUBLIC INTEREST

25. The trading described in paragraphs 12, 13 14 and 17, under the management of the Respondent, had the effect of creating a misleading impression that there was a higher volume of trading in Visa Gold shares than there truly was. The trading described in paragraph 11, under the management of the Respondent, caused an upward pressure on the price for Visa Gold shares.

26. The Respondent ought to have known that the trades described above could create a misleading appearance as to market activity for Visa Gold shares or as to the price of those shares. The Respondent ought to have realized that, through his firm's market making facility, he might be assisting Zuk in masking the true nature of certain of his trades.

27. The Respondent's conduct was contrary to the public interest.

VI. TERMS OF SETTLEMENT

28. The Respondent agrees to the following terms of settlement, to be set out in an order by the Commission pursuant to s. 127(1) of the Act, as follows:

(a) trading, directly or indirectly, in any securities by the Respondent, for his own account or for the account of others, will cease for a period of 4 months from the date of the Order. Thereafter, for a period of 5 years from the date of the Order, the Respondent's trading will be restricted as follows:

(1) the Respondent will be permitted to trade in securities on behalf of a registered dealer who provides Staff of the Commission with an undertaking to supervise the Respondent's trading activities, with the following restrictions:

- (A) the Respondent will be permitted to act as an agent to input orders for client trades entered on behalf of retail clients by Registered Representatives at the registered dealer;
- (B) the Respondent will be permitted to act as an agent to input orders for Toronto Stock Exchange or TSX Venture Exchange trades on behalf of U.S. brokerage firms that are disclosed to, and approved by, Staff of the Commission;
- (C) the Respondent will be permitted to conduct trading in a firm inventory account at the registered dealer, provided that the securities:
- (i) are debt instruments that cannot be converted (directly or indirectly) into shares;
 - (ii) are securities listed on the Toronto Stock Exchange, TSX Venture Exchange, NASDAQ, Amex and New York Stock Exchange;
 - (iii) are not exempt securities for purposes of the Ontario Securities Act; or
 - (iv) are securities in which the Respondent and the registered dealer, in the aggregate, do not hold a 10% interest;
- (D) for a period of 6 months immediately following the 4-month cease trade period referred to in paragraph 28(a) above, the Respondent will be permitted to sell any securities contained in an account referred to in paragraph 28(a)(1)(C) above that would otherwise contravene the restrictions set out therein;
- (E) the Respondent will be permitted to sell an existing interest in D'Angelo Brands Inc. that would otherwise contravene the restrictions set out in paragraph 28(a)(1)(C);

- (2) the Respondent will be permitted to trade in securities in one RRSP and one non-RRSP account, which he will identify in writing to the Staff of the Commission and, in those accounts, the Respondent will be permitted to trade in securities described in paragraph 28(a)(1)(C) (i) to (iv) above;
- (b) for a period of 3 years immediately following the 4-month cease trade period referred to in paragraph 28(a) above, the Respondent will not be permitted to apply to be a specialist or market maker for any publicly traded security, and will relinquish any such positions that he currently holds;
- (c) subject to being permitted to trade as contemplated by paragraph 28(a) and (b) above, any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years from the date of the Order;
- (d) the Respondent undertakes not to apply for registration that would permit him to represent clients as a registered representative for a period of 15 years from the date of the Order;
- (e) for a period of 5 years from the date of the Order, the Respondent's registration will be subject to the restrictions set out in paragraph 28(a)(1) and (b) above;
- (f) that the Respondent will not act as an officer or director of any reporting issuer or registrant for a period of 5 years from the date of the Order; and
- (g) that the Respondent pay to the Commission the amount of \$6,000 in costs and disgorge to the Commission the amount of \$9,000 for allocation to or for the benefit of third parties pursuant to s. 3.4(2)(b) of the *Act*, and if such costs and disgorgement are not paid within 5 years from the date of the Order, the restrictions referred to in paragraph 28(a) and (e) above shall remain in place until further Order of the Commission.

VII. STAFF COMMITMENT

29. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any conduct or alleged conduct of the Respondent in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 33 below.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

30. Approval of this Settlement Agreement shall be sought at a hearing of the Commission on a date agreed to by Staff and the Respondent.

31. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and the Respondent also agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

32. Staff and the Respondent agree that if this Settlement Agreement is approved by the Commission, neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement.

33. If this Settlement Agreement is approved by the Commission and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out in Part VI herein, Staff reserve the right to bring proceedings under Ontario securities law against the Respondent based on, but not limited to, the facts set out in Part III of the Settlement Agreement, as well as the breach of the Settlement Agreement.

34. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an Order in the form attached as Schedule "A" is not made by the

Commission, each of Staff and the Respondent will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected by this Settlement Agreement or the settlement negotiations.

35. Whether or not this Settlement Agreement is approved by the Commission, the Respondent agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

IX. DISCLOSURE OF AGREEMENT

36. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both the Respondent and Staff or as may be required by law.

37. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

X. EXECUTION OF SETTLEMENT AGREEMENT

38. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

39. A facsimile copy of any signature shall be effective as an original signature.

Dated this 17th day of April, 2007

"J. Wilkinson"
Witness

"Dane Walton"
Dane Alan Walton

Dated this 16th day of April, 2007

STAFF OF THE ONTARIO
SECURITIES COMMISSION

"Michael Watson"
Michael Watson, Director, Enforcement

Schedule A

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, AS AMENDED**

AND

**ROBERT PATRICK ZUK, DANE ALAN WALTON
DEREK REID, IVAN DJORDJEVIC,
and MATTHEW NOAH COLEMAN**

ORDER

WHEREAS on March 11, 2005 the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the “Act”) in respect of trading in the shares of Visa Gold Explorations Inc.;

AND WHEREAS on March 11, 2005 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS on September 25, 2006, Staff of the Commission filed an Amended Statement of Allegations;

AND WHEREAS on March 14, 2007, Staff of the Commission filed an Amended Amended Statement of Allegations dated March 7, 2007;

AND WHEREAS on March 26, 2007, Staff of the Commission filed an Amended Amended Amended Statement of Allegations;

AND WHEREAS Dane Alan Walton entered into a settlement agreement dated April 17, 2007 (the “Settlement Agreement”) in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated April 17, 2007 setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Amended Statement of Allegations, and upon considering submissions from counsel for Dane Alan Walton and from Staff of the Commission;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED, PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT, THAT:

- (a) the Settlement Agreement is hereby approved;
- (b) trading, directly or indirectly, in any securities by the Respondent, for his own account or for the account of others, will cease for a period of 4 months from the date of the Order. Thereafter, for a period of 5 years from the date of the Order, the Respondent's trading will be restricted as follows:
 - (1) the Respondent will be permitted to trade in securities on behalf of a registered dealer who provides Staff of the Commission with an undertaking to supervise the Respondent's trading activities, with the following restrictions:
 - (A) the Respondent will be permitted to act as an agent to input orders for client trades entered on behalf of retail clients by Registered Representatives at the registered dealer;
 - (B) the Respondent will be permitted to act as an agent to input orders for Toronto Stock Exchange or TSX Venture Exchange trades on behalf of U.S. brokerage firms that are disclosed to, and approved by, Staff of the Commission;
 - (C) the Respondent will be permitted to conduct trading in a firm inventory account at the registered dealer, provided that the securities:
 - (i) are debt instruments that cannot be converted (directly or indirectly) into shares;
 - (ii) are securities listed on the Toronto Stock Exchange, TSX Venture Exchange, NASDAQ, Amex and New York Stock Exchange;
 - (iii) are not exempt securities for purposes of the Ontario Securities Act; or
 - (iv) are securities in which the Respondent and the registered dealer, in the aggregate, do not hold a 10% interest;
 - (D) for a period of 6 months immediately following the 4-month cease trade period referred to in paragraph (b) above, the Respondent will be permitted to sell any securities contained in an account

referred to in paragraph (b)(1)(C) above that would otherwise contravene the restrictions set out therein;

(E) the Respondent will be permitted to sell an existing interest in D'Angelo Brands Inc. that would otherwise contravene the restrictions set out in paragraph (b)(1)(C) above;

(2) the Respondent will be permitted to trade in securities in one RRSP and one non-RRSP account, which he will identify in writing to the Staff of the Commission and, in those accounts, the Respondent will be permitted to trade in securities described in paragraph (b)(1)(C) (i) to (iv) above;

(c) for a period of 3 years immediately following the 4-month cease trade period referred to in paragraph (b) above, the Respondent will not be permitted to apply to be a specialist or market maker for any publicly traded security, and will relinquish any such positions that he currently holds;

(d) subject to being permitted to trade as contemplated by paragraph (b) and (c) above, any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years from the date of the Order;

(e) the Respondent undertakes not to apply for registration that would permit him to represent clients as a registered representative for a period of 15 years from the date of the Order;

(f) for a period of 5 years from the date of the Order, the Respondent's registration will be subject to the restrictions set out in paragraph (b)(1) and (c) above;

(g) that the Respondent will not act as an officer or director of any reporting issuer or registrant for a period of 5 years from the date of the Order; and

(h) that the Respondent pay to the Commission the amount of \$6,000 in costs and disgorge to the Commission the amount of \$9,000 for allocation to or for the benefit of third parties pursuant to s. 3.4(2)(b) of the *Act*, and if such costs and disgorgement are not paid within 5 years from the date of the Order, the restrictions referred to in paragraph (b) and (f) above shall remain in place until further Order of the Commission.

Dated at Toronto, Ontario this _____ day of April, 2007
