



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

- AND -

**IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN, ALBERT IP, ALFRED
C.T. HUNG, GEORGE HO, SIMON YEUNG and DAVID HORSLEY**

**SETTLEMENT AGREEMENT
BETWEEN STAFF AND DAVID HORSLEY**

PART I - INTRODUCTION¹

1. By Notice of Hearing dated May 22, 2012 (the “Notice of Hearing”), the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing, commencing on July 12, 2012, pursuant to sections 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended (the “Act”), to consider whether it is in the public interest to make orders, as specified therein, against Sino-Forest Corporation (“Sino-Forest”), Allen Chan (“Chan”), Albert Ip (“Ip”), Alfred Hung (“Hung”), George Ho (“Ho”), Simon Yeung (“Yeung”) and David Horsley (“Horsley”) (collectively the “Respondents”). Chan, Ip, Hung, Ho and Yeung are referred to collectively as “Overseas Management”. The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission (“Staff”) dated May 22, 2012 (the “Statement of Allegations”).

2. The Commission will issue a further Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the Act, it is in the public interest for the Commission to approve this Settlement Agreement and to make certain orders in respect of Horsley.

PART II – JOINT SETTLEMENT RECOMMENDATION

¹ Staff and Horsley agree that any references to sections of the Act, the Rules or Regulations contained in this Settlement Agreement and any Orders issued by the Commission in relation to this Settlement Agreement are consistent with the Act, Rules or Regulations as they existed at the filing of the Notice of Hearing dated May 22, 2012 and that any terms not defined herein are used as defined in the Statement of Allegations dated May 22, 2012.

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing against Horsley (the “Proceeding”) in accordance with the terms and conditions set out below. Horsley consents to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

A. Sino-Forest

4. Sino-Forest² was a reporting issuer in the province of Ontario as that term is defined in subsection 1(1) of the Act. Between June 30, 2006 and January 11, 2012 (the “Material Time”), the common shares of Sino-Forest were listed on the Toronto Stock Exchange (“TSX”).

5. Sino-Forest was created under the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44, as amended (the “CBCA”) and its registered head office was located in Mississauga, Ontario. Sino-Forest purportedly engaged primarily in the purchase and sale of Standing Timber in the People’s Republic of China (the “PRC”), and its principal executive office was located in Hong Kong.

6. From February of 2003 until October of 2010, Sino-Forest raised approximately \$3.0 billion (USD)³ in cash from the issuance of equity and debt securities to investors (the “Investors”).

7. From June 30, 2006 to March 31, 2011, Sino-Forest’s share price grew from \$5.75 (CAD) to \$25.30 (CAD), an increase of 340%. By March 31, 2011 Sino-Forest’s market capitalization was well over \$6 billion (CAD).

8. In early June of 2011, the share price of Sino-Forest plummeted after a private analyst made allegations of fraud against Sino-Forest in a report released on June 2, 2011 (the “Muddy Waters Report”).

² “Sino-Forest” or the “Company” includes all of Sino-Forest’s subsidiaries and companies that it controlled as set out in its public disclosure record and as the context of the Statement of Allegations and this Settlement Agreement require.

³ Unless otherwise stated, all amounts presented in this Settlement Agreement are in United States Dollars.

9. On June 2, 2011, the board of Sino-Forest (the “Board”) appointed a committee of independent directors (the “Independent Committee”) to review and examine the allegations in the Muddy Waters Report and report back to the Board of Sino-Forest.
10. On August 26, 2011, the Commission issued a temporary order that all trading in securities of Sino-Forest cease.
11. On November 15, 2011, Sino-Forest announced that it was deferring the release of its interim financial report for the third quarter of 2011.⁴ Sino-Forest has never filed this interim financial report with the Commission.
12. On January 10, 2012, Sino-Forest issued a news release cautioning that its historic financial statements and related audit reports should not be relied upon.
13. On January 31, 2012, after delivering two interim reports, the Independent Committee delivered its final report to the Board. The Independent Committee could not resolve issues in three identified “core areas” of concern: (i) timber asset verification; (ii) timber asset value; and (iii) revenue recognition.
14. Sino-Forest was required to file its 2011 audited annual financial statements with the Commission by March 30, 2012. That very day, Sino-Forest initiated proceedings in the Superior Court of Justice (Ontario) requesting protection from its creditors under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the “CCAA”). Sino-Forest has never filed its 2011 audited annual financial statements with the Commission.
15. On April 4, 2012, the auditors of Sino-Forest resigned.
16. On May 9, 2012, the TSX delisted the shares of Sino-Forest.
17. On May 22, 2012, Staff filed the Statement of Allegations against the Respondents and issued the Notice of Hearing.

⁴ The financial year end of Sino-Forest is December 31.

18. On January 30, 2013, Sino-Forest announced that it had implemented a plan of compromise and reorganization under the CCAA and the CBCA. As a result of this plan, Sino-Forest ceased to be a reporting issuer in every applicable jurisdiction.

19. On March 4, 2013, all of the outstanding shares of Sino-Forest were cancelled.

B. David Horsley - Chief Financial Officer of Sino-Forest During the Material Time

20. Horsley received his Bachelor of Arts degree from the University of Toronto. He became a member of the Institute of Chartered Accountants of Ontario⁵ and the Institute of Chartered Business Valuators. Horsley also has a corporate finance specialist designation and a chartered director designation.

21. Horsley's association with Sino-Forest started on September 14, 2004 when he was appointed as an independent director on the Board and soon after became a member of Sino-Forest's audit committee. Horsley was then appointed as Senior Vice-President and Chief Financial Officer ("CFO") of Sino-Forest effective October 10, 2005 and resigned from the Board of Directors on or about that date. Throughout the Material Time, Horsley was the CFO of Sino-Forest.

22. On April 5, 2012, Horsley received an Enforcement Notice from Staff related to the matters set out herein. He resigned his position as CFO of Sino-Forest on April 17, 2012.

23. Horsley was responsible for the oversight of all financial aspects of the affairs of Sino-Forest and had the ultimate responsibility for the integrity of Sino-Forest's financial reporting.

24. During the Material Time, Horsley, as CFO of Sino-Forest, was required to do the following to comply with National Instrument 52-109 ("NI 52-109"):

- (i) certify that he had reviewed Sino-Forest's annual and interim filings, and that based on his review, having exercised reasonable diligence,

⁵ Now known as the Chartered Professional Accountants of Ontario.

the annual and interim filings presented fairly in all material respects the financial condition, financial performance and cash flows of Sino-Forest as at and for the period presented and that they did not include misrepresentations;

- (ii) be responsible for establishing and maintaining disclosure controls and procedures (“DC&P”) and internal control over financial reporting (“ICFR”) for Sino-Forest;
- (iii) certify that he supervised the design of DC&P, to provide reasonable assurance that material information relating to Sino-Forest was made known to him and that information that was required to be disclosed by Sino-Forest under Ontario securities laws was recorded, processed, summarized and reported on a timely basis;
- (iv) certify that he supervised the design of ICFR to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with Canadian Generally Accepted Accounting Principles;
- (v) certify that Sino-Forest disclosed in its annual Management Discussion and Analysis (“MD&A”) a description of all material weaknesses in the design of its ICFR, the impact of any material weaknesses on Sino-Forest’s financial reporting and plans for remediation; and
- (vi) certify that he supervised the evaluation of the effectiveness of Sino-Forest’s DC&P and ICFR and that Sino-Forest disclosed his conclusions about the effectiveness of Sino-Forest’s DC&P and ICFR in its annual MD&A.

25. In the event of material weaknesses in Sino-Forest’s ICFR, Horsley had the responsibility to ensure that these material weaknesses were properly disclosed to the investing public.

26. To fulfil these and other critical roles as CFO of Sino-Forest, Horsley agrees that he needed to have the requisite first-hand knowledge of the business and operating environment of Sino-Forest. Accordingly, Horsley agrees that he needed to know how Sino-Forest came to own its assets and generate revenue. Such knowledge was crucial to enable Horsley to identify any material risks, disclose these risks to the investing public and ultimately eliminate or mitigate these risks to the best of his ability.

27. Horsley agrees that he was also required to have sufficient knowledge of Sino-Forest's key suppliers ("Suppliers") and customers, referred to as Authorized Intermediaries ("AIs") in the BVI Model (as defined below), to ensure the legitimacy of transactions between Sino-Forest and these companies which were located in the PRC. This knowledge was required to ensure that material transactions were arm's length and had true economic substance or, if any material transactions were not arm's length, that these facts were properly disclosed to the investing public.

28. The need for Horsley, as CFO of Sino-Forest, to have first-hand knowledge of Sino-Forest's business was heightened by the fact that the vast majority of its operations were in the PRC and most if not all of its key purchase and sales contracts were written in Chinese. Horsley had no prior experience as an officer, director or employee of a forestry company nor did he have any prior experience conducting business in the PRC. He did not speak or read any Chinese dialects. He did not reside in the PRC or Hong Kong but spent on average two weeks per quarter at Sino-Forest's offices in Hong Kong.

29. Horsley admits that, as CFO of Sino-Forest, he did not have the requisite first-hand knowledge of the business of Sino-Forest or its operating environment. He also placed undue reliance on the representations made to him by members of Overseas Management.

30. Horsley's failure to acquire this knowledge resulted in his breaches of the Act set out herein and was contrary to the public interest. He also failed to be duly diligent in the performance of his duties and responsibilities as CFO of Sino-Forest.

C. Standing Timber – The Primary Business of Sino-Forest

31. In its Annual Information Form for 2010, Sino-Forest stated that its operations were comprised of two core business segments which it titled “Wood Fibre Operations” and “Manufacturing and Other Operations”. Wood Fibre Operations had two subcomponents entitled “Plantation Fibre” and “Trading of Wood Logs”.

32. According to Sino-Forest’s public disclosure (the “Sino-Forest Disclosure”), the Plantation Fibre subcomponent of its business was derived from the acquisition, cultivation and sale of either “standing timber” or “logs” in the PRC. For the purpose of this Settlement Agreement, the Plantation Fibre subcomponent of Sino-Forest’s business will be referred to as “Standing Timber” as, according to the Sino-Forest Disclosure, most, if not all, of the revenue from the sale of Plantation Fibre was derived from the sale of these assets.

33. From 2007 to 2010, Sino-Forest reported Standing Timber revenue totaling approximately \$3.56 billion, representing about 75% of its total revenue of \$4.77 billion. The following table provides a summary of Sino-Forest’s stated revenue for the period from 2007 to 2010 and illustrates the importance of the revenue derived from the sale of Standing Timber:

	<i>\$ (millions)</i>				
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Total</u>
Plantation Fibre (defined as Standing Timber herein)	521.5	685.4	954.2	1,401.2	3,562.3
Trading of Wood Logs	154.0	153.5	237.9	454.0	999.4
<i>Wood Fibre Operations</i>	<i>675.5</i>	<i>838.9</i>	<i>1,192.1</i>	<i>1,855.2</i>	<i>4,561.7</i>
<i>Manufacturing and Other Operations</i>	<i>38.4</i>	<i>57.1</i>	<i>46.1</i>	<i>68.3</i>	<i>209.9</i>
Total Revenue	<u>713.9</u>	<u>896.0</u>	<u>1,238.2</u>	<u>1,923.5</u>	<u>4,771.6</u>

D. The BVI and WFOE Models – Standing Timber Holdings and Revenue

34. Standing Timber was purchased, held and sold by Sino-Forest in two distinct legal structures or models: the “BVI Model” and the “WFOE Model”.

35. According to the Sino-Forest Disclosure, in the BVI Model, Sino-Forest's purchases and sales of Standing Timber in the PRC were conducted using wholly owned subsidiaries of Sino-Forest incorporated in the British Virgin Islands (the "BVI Subs"). The BVI Subs entered into written purchase contracts ("Purchase Contracts") with Suppliers and then entered into written sales contracts ("Sales Contracts") with AIs.

36. According to the Sino-Forest Disclosure, in the WFOE Model, Sino-Forest used subsidiaries incorporated in the PRC called Wholly Foreign Owned Enterprises ("WFOEs") to acquire, cultivate and sell the Standing Timber. The Sino-Forest WFOEs also entered into Purchase Contracts and Sales Contracts with other parties in the PRC.

37. According to the Sino-Forest Disclosure, at December 31, 2010, Sino-Forest reported total timber holdings of \$3.1 billion comprising 799,700 hectares. About \$2.5 billion, or approximately 80% of the total timber holdings (by value), was held in the BVI Model, comprising approximately 467,000 hectares of Standing Timber. The WFOE Model held approximately 97,000 hectares of Standing Timber valued at \$295.6 million or approximately 10% of the total timber holdings (by value). The timber holdings in the BVI Model and the WFOE Model comprised approximately 90% of the total timber holdings (by value) of Sino-Forest as at December 31, 2010.

38. According to the Sino-Forest Disclosure, the cash flow associated with the purchase and sale of Standing Timber executed in the BVI Model took place pursuant to a payables/receivables offsetting arrangement (the "Offsetting Arrangement"), whereby the BVI Subs would not directly receive the proceeds on the sale of Standing Timber from the purchasing AI. Rather, Sino-Forest disclosed that it would direct the AI that purchased the Standing Timber to pay the sales proceeds to other Suppliers in order to buy additional Standing Timber. Sino-Forest did not make payment directly to Suppliers for purchases of Standing Timber.

39. Sino-Forest did not possess the bank records to confirm that the cash flow in the Offsetting Arrangement in the BVI Model actually took place. This lack of transparency within the BVI Model meant independent confirmation of these reported cash flows was reliant on the good faith and independence of Suppliers and AIs.

40. In the WFOE Model, the cash flow associated with the purchases and sales of Standing Timber could be traced in the bank accounts of Sino-Forest's WFOE companies.

41. Sino-Forest dealt with relatively few Suppliers and AIs in the BVI Model in any particular year. For example, in 2010, six Suppliers accounted for 100% of the Standing Timber purchased in the BVI Model and five AIs accounted for 100% of Sino-Forest's revenue generated in the BVI Model.

42. From 2007 to 2010, revenue from the BVI Model totaled \$3.35 billion, representing 94% of Sino-Forest's reported Standing Timber revenue and 70% of Sino-Forest's total revenue. The importance of the revenue from the BVI Model is demonstrated in the following table:

	<i>\$(millions)</i>				
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Total</u>
BVI Model Revenue	501.4	644.9	882.1	1,326.0	3,354.4
WFOE Model Revenue	20.1	40.5	72.1	75.2	207.9
Standing Timber Revenue	521.5	685.4	954.2	1,401.2	3,562.3
Total Revenue	713.9	896.0	1,238.2	1,923.5	4,771.6
BVI Model as % of Total Revenue	70%	72%	71%	69%	70%

43. The Sino-Forest Disclosure did not adequately describe the relative importance of the BVI Model and the WFOE Model nor did it reveal the material difference in cash flow between the BVI Model and the WFOE Model.

44. Horsley was aware that the assets and revenue in the BVI Model were more significant than the assets and revenue of the WFOE Model and that the inherent financial risk profiles in each model were materially different. Horsley now acknowledges that this important difference in risk profiles was not fully disclosed to the public prior to the release of the Muddy Waters Report contrary to Ontario securities law.

E. Major Suppliers and AIs within the BVI Network

45. Almost all of the buying and selling of Standing Timber in the BVI Model was generated through transactions between BVI Subs and a small number of Suppliers and AIs in any particular year.

46. For the purpose of this Settlement Agreement, the BVI Subs, Suppliers, AIs, and any alleged “nominee” and “peripheral” companies involved in the buying and selling of Standing Timber in the BVI Model are collectively referred to as the “BVI Network”.

47. The control and influence that Sino-Forest exerted over certain Suppliers, AIs and peripheral companies within the BVI Network brought the *bona fides* of numerous contracts entered into in the BVI Model into question and thereby placed the pecuniary interests of the Investors at risk.

48. Horsley’s position is that he did not have knowledge of improper influence by Sino-Forest over purportedly external companies in the BVI Network.

49. Horsley admits that he had inadequate first-hand knowledge about the operations, legitimacy and substance of the major Suppliers or AIs of Sino-Forest during the Material Time other than as conveyed to him by Overseas Management.

50. For example, from 2007 to 2010, Huaihua City Yuda Wood Ltd. (“Yuda Wood”) was purportedly Sino-Forest’s largest Supplier, accounting for 18% of all purchases in the BVI Model. Sino-Forest claimed to have paid Yuda Wood approximately \$650 million during that time. Prior to the release of the Muddy Waters Report and the creation of the Independent Committee, Horsley knew little about Yuda Wood or how it operated.

51. Similarly, in 2008, Dongkou Shuanglian Wood Company Limited (“Dongkou”) was Sino-Forest’s most significant AI, purportedly purchasing approximately \$125 million in Standing Timber from Sino-Forest, constituting about 18% of Sino-Forest’s Standing Timber revenue for that year. Prior to the release of the Muddy Waters Report and the creation of the Independent Committee, Horsley knew little about Dongkou or how it operated.

52. Horsley admits that his first-hand knowledge about the major Suppliers and AIs of Sino-Forest, such as Yuda Wood and Dongkou, fell below what was expected of him as CFO of Sino-Forest.

53. Horsley's lack of first-hand knowledge about the Suppliers and AIs was contrary to the public interest.

F. The Creation of Purchase Contracts in the BVI Model

54. As set out in paragraph 37, approximately 80% (by value) of Sino-Forest's timber holdings were held in the BVI Model as of December 31, 2010.

55. As CFO of Sino-Forest, Horsley knew that he was required to ensure the proper design of ICFR, including ICFR over the recording and recognition of Sino-Forest's purchase of Standing Timber. Horsley was aware that ineffective ICFR could put the integrity of Sino-Forest's financial reporting at risk including a risk of fraud.

56. Sino-Forest used the Purchase Contracts to acquire and evidence ownership of Standing Timber in the BVI Model. The Purchase Contracts purported to include a number of attachments including Certificates or other documents purporting to certify evidence of Standing Timber ownership, Farmers' Authorization Letters (the "Farmers' Authorizations") and Timber Survey Reports (the "Survey Reports").

57. Horsley now accepts that during the Material Time, but without his knowledge, employees of Sino-Forest employed an improper and misleading quarterly documentation process in the BVI Model whereby the Purchase Contracts were not drafted and executed until the quarter after the purported purchases were recorded in the Sino-Forest Disclosure.

58. Horsley now accepts that, like the Purchase Contracts and without his knowledge, the Confirmations⁶ were also created by Sino-Forest and improperly dated to the previous quarter. This was misleading. These Confirmations were created contemporaneously with the creation of the corresponding Purchase Contracts.

59. Horsley now accepts that the Purchase Contracts referred to Farmers' Authorizations. However, no Farmers' Authorizations were attached to the Purchase Contracts available to Horsley. The Farmers' Authorizations are significant because they provide evidence that

⁶ As discussed at paragraph 74 of the Statement of Allegations.

important contractual rights to the Standing Timber were properly transferred from farmers and, ultimately, to Sino-Forest through Suppliers.

60. Additionally, Horsley accepts that the Survey Reports, which purported to identify the general location of the purchased timber, were all or almost all prepared by a single firm during the Material Time.

61. Without Horsley's knowledge, a 10% shareholder of this survey firm was also an employee of Sino-Forest. Drafts of certain Survey Reports purportedly prepared by this "independent" survey company were located on the computer of another employee of Sino-Forest.

62. Like the Purchase Contracts and Confirmations, these drafts of the Survey Reports were improperly dated to the quarter prior to their creation. This too was misleading but was done without Horsley's knowledge.

63. Sino-Forest relied on the validity of the Purchase Contracts and the Confirmations as proof of ownership of the Standing Timber it held in the BVI Model.

64. Horsley now acknowledges that the Purchase Contracts and available attachments, including Confirmations, did not constitute sufficient proof of ownership of the Standing Timber for public disclosure or financial reporting purposes. Neither the Purchase Contracts nor the Survey Reports adequately identified the precise location of the Standing Timber being purchased such that the existence of this Standing Timber could not be properly verified and valued independently

65. Prior to June of 2011, Horsley never reviewed a translation of a Purchase Contract or Sales Contract or any of their attachments including the Confirmations. Therefore, he was not aware whether any specific rights, such as harvesting rights, were recognized or not in the Confirmations.

66. Horsley was not aware of Sino-Forest's practice of backdating the Purchase Contracts in the BVI Model as set out in paragraph 57 and following above.

67. Horsley now agrees that, as CFO of Sino-Forest, he should have known about all procedures leading to the creation and execution of the Purchase Contracts in the BVI Model as well as the origin and significance of each of the attachments to these contracts.

68. Horsley now agrees that he should have assured himself that effective ICFR was implemented to ensure that assets were properly recognized in the Sino-Forest Disclosure.

69. Horsley now agrees that, as CFO of Sino-Forest, he did not have the requisite first-hand knowledge of the business and operating environment of Sino-Forest required to ensure that Sino-Forest acquired and maintained the requisite proof of ownership for its Standing Timber assets held in the BVI Model.

70. Horsley's failure to exercise the skill, care and diligence required of him as CFO of Sino-Forest permitted Sino-Forest to make materially misleading disclosure contrary to section 122(1)(b). Accordingly, his conduct was contrary to section 122(3) of the Act.

71. This conduct was also contrary to the public interest.

G. The Creation of Sales Contracts in the BVI Model and Incorrect Revenue Recognition

72. Like the Purchase Contracts, all of the Sales Contracts entered into by the BVI Subs in the BVI Model were not actually created and executed until the quarter after the date of the alleged transaction.

73. Accordingly, the revenue from the Sales Contracts in the BVI Model was recognized in the quarter prior to the creation of the Sales Contracts. Therefore, the Sino-Forest Disclosure regarding the Company's revenue from Standing Timber was materially misleading. During the Material Time, in its correspondence to Staff, Horsley provided incorrect or untrue information to the Commission about Sino-Forest's revenue recognition practice.

74. Horsley was not aware of Sino-Forest's practice of backdating Sales Contracts as described in paragraph 72 above.

75. On May 13, 2008, Staff of the Corporate Finance Branch of the Commission addressed a letter (the “May 13 Letter”) to Horsley, as CFO of Sino-Forest, requesting confirmation that “the significant risks and rewards of ownership of standing timber are transferred to the customer at the time the contract is signed.” The May 13 Letter was prompted by a Sino-Forest accounting policy note for revenue recognition which indicated that Standing Timber revenue was recognized when the contract was entered into.

76. In his capacity of CFO, Horsley responded to the May 13 Letter through his own letter dated June 13, 2008, (the “June 13 Letter”). In the June 13 Letter, Horsley clearly stated that revenue for “standing timber” was recognized on the date when the relevant “sales agreement” was “signed” or “executed”.

77. The June 13 Letter states that “[t]he Corporation recognizes revenue at this date because the following criteria have been met: (a) pervasive evidence of an arrangement exists; (b) delivery has occurred, (c) the Corporation’s price is fixed and determinable; and (d) collection is reasonably assured.”

78. Horsley now agrees that the June 13 Letter he signed is materially incorrect as it applies to Sino-Forest’s revenue recognition. Horsley is now aware that most, if not all, of the Sales Contracts in the BVI Model executed during the Material Time were backdated as set out above and therefore revenue was not recognized in the manner described in the June 13 Letter.

79. Horsley now agrees that, as CFO of Sino-Forest, he should have known about all procedures leading to the creation and execution of the Sales Contracts in the BVI Model as well as the significance of each of the attachments to these contracts. He should have assured himself that effective ICFR was implemented to ensure that revenue was properly recognized in the Sino-Forest Disclosure in accordance with Ontario securities law.

80. The June 13 Letter signed by Horsley and provided to Corporate Finance Staff contained incorrect or untrue information contrary to section 122(1)(a) of the Act.

81. This conduct was also contrary to the public interest.

H. Undisclosed ICFR Material Weaknesses/Failures in the BVI Model

82. In its MD&A for 2010 dated March 15, 2011, Sino-Forest stated the following on page 27 regarding its “Disclosure Control and Procedures and Internal Controls Over Financial Reporting”:

The success of the Company’s vision and strategy of acquiring and selling forestry plantations and access to a long-term supply of wood fibre in the PRC is dependent on senior management. **As such, senior management plays a significant role in maintaining customer relationships, negotiating and finalizing the purchase and sale of plantation fibre contracts and the settlement of accounts receivable and accounts payable associated with plantation fibre contracts.** This concentration of authority, or lack of segregation of duties, creates risk in terms of measurement and completeness of transactions as well as the possibility of non-compliance with existing controls, either of which may lead to the possibility of inaccurate financial reporting. By taking additional steps in 2011 to address this deficiency, management will continue to monitor and work on mitigating this weakness. **[emphasis added]**

83. Sino-Forest made similar disclosure in its annual MD&A from 2006 to 2009 regarding this concentration of authority or lack of segregation and the risk resulting from these materials weaknesses. These weaknesses were not remedied by Sino-Forest, Overseas Management or Horsley during the Material Time.

84. In addition, Sino-Forest failed to disclose the extent of the concentration of authority or lack of segregation of duties in Overseas Management. Specifically, Horsley acknowledges that Sino-Forest did not fully disclose the concentration of control that members of Overseas Management had (i) over the operation of the BVI Model including the creation and execution of the Purchase Contracts and Sales Contracts and (ii) over the documentation of the cash flow in the BVI Model from the purchase and sale of Standing Timber. As set out above, the importance of the BVI Model was not adequately described in the Sino-Forest Disclosure. Accordingly, the fact that these material weaknesses were linked to the BVI Model was not disclosed. Horsley permitted the issuance of Sino-Forest’s inadequate and materially misleading disclosure in this regard, which was contrary to Ontario securities law.

85. It is Staff’s allegation that the concentration of control in the hands of Overseas Management facilitated the fraudulent course of conduct perpetrated in the BVI Model as alleged by Staff in the Statement of Allegations. However, Staff has no reason to believe that Horsley

was aware of, involved in, or a participant in any of the fraud that has been alleged against Sino-Forest or Overseas Management.

86. Horsley now agrees that, as CFO of Sino-Forest, he ought to have applied additional diligence before accepting the representations of Chan and the other members of Overseas Management, particularly their representations regarding the mitigation of the identified material weaknesses. Horsley acknowledges that his failure to do so contributed to the risk of fraud.

87. As set out above in paragraph 84, these key omissions made the Sino-Forest Disclosure materially misleading contrary to section 122(1)(b) of the Act. Accordingly, Horsley's conduct was contrary to section 122(3) of the Act.

88. Accordingly, during the Material Time, Horsley failed to exercise the skill, care and diligence required of him as CFO of Sino-Forest when he certified the annual and interim filings of Sino-Forest. For the reasons set out above, Horsley admits that these filings were materially misleading. This conduct was contrary to NI 52-109.

89. This conduct was also contrary to the public interest.

I. Deficiencies in Horsley's Knowledge Regarding Harvesting of Standing Timber

90. As CFO of Sino-Forest, Horsley should have had first-hand knowledge of how Sino-Forest would acquire, hold and ultimately sell its Standing Timber in the BVI Model and how Sino-Forest or any AI would harvest this Standing Timber. He did not.

91. Due to his lack of knowledge in this regard, Horsley could not have known whether the financial disclosure of Sino-Forest was accurate when it referred to the purported harvesting of Standing Timber and "logs". Horsley realizes now that little or no harvesting actually took place by Sino-Forest or its customers.

92. Further, the Sino-Forest Disclosure states that parties (such as AIs) who purchased Standing Timber had contractually agreed that they had eighteen months to harvest this Standing

Timber. Horsley knew or should have known that Sino-Forest was not tracking whether AIs were actually harvesting the Standing Timber sold to them in the BVI Model and, if so, when these AIs were doing so.

93. As set out in the Sino-Forest Disclosure and as discussed in the Sino-Forest quarterly earnings calls, this was an important contractual term of Sino-Forest because Sino-Forest could not exercise its right of first refusal to lease and replant the underlying land until the trees were harvested by customers such as the AIs. Sino-Forest's stated plan to replant and thus create more Standing Timber assets on this underlying land was repeatedly presented to the investing public.

94. Horsley's failure to make any inquiries in this regard contributed to the materially misleading disclosure being made by Sino-Forest that its standing timber and "logs" were being harvested.

95. During the Material Time, Horsley's failure to exercise the skill, care and diligence required of him as CFO of Sino-Forest permitted Sino-Forest to make materially misleading disclosure contrary to section 122(3) of the Act.

96. Accordingly, during the Material Time, Horsley failed to exercise the skill, care and diligence required of him as CFO of Sino-Forest when he certified the annual and interim filings of Sino-Forest. For the reasons set out above, Horsley admits that these filings were materially misleading. This conduct was contrary to NI 52-109.

97. This conduct was also contrary to the public interest.

98. By engaging in the conduct described above, Horsley admits and acknowledges that he contravened Ontario securities law during the Material Time in the following ways:

- (i) as result of his inadequate knowledge, lack of due diligence and undue reliance on the representations of Overseas Management, Horsley permitted Sino-Forest to make materially misleading disclosure contrary to subsection 122(1)(b) of the Act and, accordingly, as CFO of Sino-Forest, his conduct was contrary to subsection 122(3) of the Act;
- (ii) as CFO of Sino-Forest, Horsley provided incorrect or untrue information in the June 13 Letter to Corporate Finance Staff, and, accordingly, Horsley's actions were contrary to subsection 122(1)(a) of the Act; and
- (iii) as CFO of Sino-Forest, Horsley's certification of the annual and interim filings of Sino-Forest was contrary to the requirements of NI 52-109.

99. Horsley admits and acknowledges that he acted contrary to the public interest by contravening Ontario securities law as set out in paragraph 98.

PART V –RESPONDENT'S POSITION

100. Horsley requests that the settlement hearing panel consider the following mitigating circumstances.

101. Horsley cooperated with Staff's investigation.

102. In early 2011, Horsley recognized the need for Sino-Forest to have a CFO based in Hong Kong and that it would be beneficial to Sino-Forest and the investing public for the CFO to be better positioned to be more involved in Sino-Forest's operations and fluent in Chinese. As a

result, in April 2011, before the Muddy Waters Report, Horsley tendered his resignation. The Board requested that Horsley withdraw his resignation, which he did.

103. Horsley was not aware of, involved in, or a participant in any of the fraud that has been alleged against Sino-Forest or Overseas Management. Further, as noted in paragraphs 48, 61, 62, 66 and 74, Horsley was not aware of any improper relationships between Sino-Forest or its employees and purportedly external companies nor was he aware of the wholesale practice of backdating documents in the BVI Model.

104. This Settlement Agreement will curtail Horsley's professional employment opportunities in the future.

105. Concurrent with this Settlement Agreement, Horsley has sought Court approval of a settlement of the class action proceedings that have been commenced against him (and others) in connection with Sino-Forest (the "Class Action") and litigation commenced against him by the Sino-Forest Litigation Trust, which will result in a total of \$5.6 million (CAD) being paid on behalf of Horsley to former security holders of Sino-Forest.

PART VI - TERMS OF SETTLEMENT

106. Horsley agrees to the terms of settlement listed below.

107. Horsley undertakes to cooperate with the Commission and Staff in this matter and to appear and testify at the hearing in this matter if requested by Staff.

108. The Commission will make an order, pursuant to sections 127(1) and section 127.1 of the Act, that:

- (a) the Settlement Agreement is approved;
- (b) pursuant to clause 6 of subsection 127(1) of the Act, Horsley is reprimanded;
- (c) pursuant to clause 7 of subsection 127(1) of the Act, Horsley resign all positions he holds as a director or officer of an issuer;

- (d) pursuant to clause 8 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of any reporting issuer;
- (e) pursuant to clause 8.1 of subsection 127(1) of the Act, Horsley resign all positions he holds as a director or officer of a registrant;
- (f) pursuant to clause 8.2 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of a registrant;
- (g) pursuant to clause 8.4 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of an investment fund manager;
- (h) pursuant to clause 8.5 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter; and
- (i) pursuant to section 127.1 of the Act, Horsley shall pay costs to the Commission in the amount of (CAD)\$700,000, inclusive of interest and HST.

109. Horsley undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in subparagraphs 108 (b) to (h) above.

PART VII - STAFF COMMITMENT

110. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Horsley in relation to the facts set out in Part III herein, subject to the provisions of paragraph 111 below.

111. If this Settlement Agreement is approved by the Commission, and at any subsequent time Horsley fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring

proceedings under Ontario securities law against Horsley based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

PART VIII - PROCEDURE FOR APPROVAL OF SETTLEMENT

112. This Settlement Agreement is conditional on Court approval of the settlement of the Class Action including an order that the settlement is a Named Third Party Defendant Settlement for the purpose of section 11.2 of Sino-Forest's Plan of Compromise and Reorganization and that Horsley is released from all claims in accordance with section 11.2(c) of the Plan. In the event that the Court does not approve the settlement of the Class Action against Horsley, this Settlement Agreement shall be null and void, Staff will not rely on the terms of this Settlement Agreement for any purpose and Horsley will not be bound by any of the admissions herein.

113. Approval of this Settlement Agreement will be sought at a hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by Staff and Horsley for the scheduling of the hearing to consider the Settlement Agreement.

114. Staff and Horsley agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding Horsley's conduct in this matter, unless the parties agree that further facts should be submitted at the settlement hearing.

115. If this Settlement Agreement is approved by the Commission, Horsley agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

116. If this Settlement Agreement is approved by the Commission, neither party will make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

117. Whether or not this Settlement Agreement is approved by the Commission, Horsley agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias

or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

118. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" is not made by the Commission:

- (a) this Settlement Agreement and its terms, including all settlement negotiations between Staff and Horsley leading up to its presentation at the settlement hearing, shall be without prejudice to Staff and Horsley; and
- (b) Staff and Horsley shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

119. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of Horsley and Staff or as may be required by law.

PART X - EXECUTION OF SETTLEMENT AGREEMENT

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

121. A facsimile copy of any signature will be as effective as an original signature.

Signed in the presence of:

“Simon Bieber”

“David Horsley”

Witness

David Horsley

Dated this 26th day of June, 2014

STAFF OF THE ONTARIO SECURITIES COMMISSION

“Tom Atkinson”

Tom Atkinson
Director, Enforcement Branch

Dated this 26th day of June, 2014

SCHEDULE "A"



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queenouest
Toronto ON M5H 3S8

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

- AND -

**IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN, ALBERT IP,
ALFRED C.T. HUNG, GEORGE HO, SIMON YEUNG and DAVID
HORSLEY**

- AND -

**IN THE MATTER OF
A SETTLEMENT AGREEMENT
BETWEEN STAFF AND DAVID HORSLEY**

**ORDER
(Sections 127 and 127.1)**

WHEREAS on May 22, 2012, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") in respect of David Horsley ("Horsley");

AND WHEREAS Horsley entered into a Settlement Agreement with Staff of the Commission dated _____, 2012 (the "Settlement Agreement") in which Horsley agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement and upon hearing submissions from counsel for Horsley and from Staff of the Commission;

AND WHEREAS Horsley has undertaken to cooperate with the Commission and Staff in this matter and to appear and testify at the hearing in this matter if requested by Staff;

AND WHEREAS Horsley has also undertaken to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in (b) to (h) below;

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

IT IS HEREBY ORDERED THAT:

- (a) the Settlement Agreement is approved;
- (b) pursuant to clause 6 of subsection 127(1) of the Act, Horsley is reprimanded;
- (c) pursuant to clause 7 of subsection 127(1) of the Act, Horsley resign all positions he holds as a director or officer of an issuer;
- (d) pursuant to clause 8 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of any reporting issuer;
- (e) pursuant to clause 8.1 of subsection 127(1) of the Act, Horsley resign all positions he holds as a director or officer of a registrant
- (f) pursuant to clause 8.2 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of a registrant;

- (g) pursuant to clause 8.4 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a director or officer of an investment fund manager;
- (h) pursuant to clause 8.5 of subsection 127(1) of the Act, Horsley is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter; and
- (i) pursuant to section 127.1 of the Act, Horsley shall pay costs to the Commission in the amount of (CAD)\$700,000, inclusive of interest and HST.

DATED AT TORONTO this day of , 2014.
