



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor CP 55, 19^e étage
20 Queen Street West 20, rue queenouest
Toronto ON M5H 3S8 Toronto ON M5H 3S8

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

- AND -

**TBS NEW MEDIA LTD., TBS NEW MEDIA PLC, CNF FOOD CORP., CNF CANDY
CORP., ARI FIRESTONE and MARK GREEN**

**SETTLEMENT AGREEMENT
BETWEEN STAFF AND ARI FIRESTONE, TBS NEW MEDIA LTD., TBS NEW
MEDIA PLC, CNF FOOD CORP. and CNF CANDY CORP.**

PART I - INTRODUCTION

1. By Notice of Hearing dated September 3, 2010, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing, commencing on September 8, 2010, pursuant to sections 37, 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 TBS New Media Inc., TBS New Media PLC ("TBS PLC"), CNF Food Corp. ("CNF Food"), CNF Candy Corp. ("CNF Candy"), Ari Jonathan Firestone ("Firestone") and Mark Green. The Notice of Hearing was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission dated September 3, 2010. On September 9, 2010, an Amended Statement of Allegations was issued which removed TBS New Media Inc. and added TBS New Media Ltd. ("TBS New Media") as a respondent and a Further Amended Statement of Allegations was issued on September 22, 2011.

2. The Commission will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to sections 37 and 127 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

Firestone and TBS New Media, TBS PLC, CNF Food and CNF Candy (collectively, the “Corporate Respondents”).

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated September 3, 2010 against Firestone and the Corporate Respondents (the “Proceeding”) in accordance with the terms and conditions set out below. Firestone and the Corporate Respondents consent to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

Overview

4. This proceeding involves the unregistered trading and illegal distribution of securities of CNF Candy and CNF Food to shareholders of TBS New Media, a company incorporated in Ontario, and TBS PLC, a company created pursuant to the laws of the United Kingdom.

5. Between 2004 and 2008, securities in TBS New Media and TBS PLC (collectively “TBS”) were distributed to investors in Ontario and throughout Canada purportedly pursuant to a private placement. Some of the persons who originally acquired securities of TBS New Media were asked to return these securities in exchange for securities of TBS PLC to allow the securities of TBS New Media to be traded on an exchange located in Frankfurt, Germany.

6. In 2009 and 2010, TBS investors in Canada were then solicited to exchange their shares in TBS for securities in CNF Candy and/or CNF Food (collectively “CNF”) for an additional cost.

7. From September of 2009 until March of 2010 (the “Material Time”), TBS investors sent approximately \$109,639 to accounts in Toronto, Ontario controlled by Firestone in order to acquire CNF securities.

8. Firestone was at all material times the sole directing mind of all of the Corporate Respondents.

9. These solicitations to TBS shareholders were made under the direction of Firestone.

The Respondents

10. TBS New Media was originally incorporated in the Province of Ontario on January 30, 1995 under the name Telxl Inc. and changed its name to TBS New Media Ltd. on September 29, 2004. During the Material Time, the registered office of TBS New Media was located in Ontario.

11. TBS PLC was a company governed by the laws of the United Kingdom which was created as a result of a change of name made on January 30, 2008. TBS PLC was previously called Bobcat PLC which was incorporated under the Companies Act 1985 on June 14, 2006.

12. Neither TBS New Media nor TBS PLC has ever been registered with the Commission in any capacity.

13. CNF Candy was incorporated pursuant to the laws of Canada on May 3, 2007. CNF Candy changed its name to CNF Food on November 21, 2007. CNF Candy was again incorporated on December 5, 2007. During the Material Time, the registered office of CNF Candy was located in Ontario.

14. CNF Food was dissolved under section 212 of the Canada Business Corporations Act on March 2, 2010. During the Material Time, the registered office of CNF Food was located in Ontario.

15. CNF Candy and CNF Food have never been registered in any capacity with the Commission.

16. Firestone is a resident of Ontario.

17. Firestone was last registered in any capacity with the Commission on July 25, 2000 and has not been registered in any capacity since that date.

Unregistered Trading in Securities of TBS and CNF Contrary to Section 25 of the Act

18. Members of the public in Canada who had acquired shares of TBS were solicited by salespersons, agents and representatives of TBS and CNF to acquire securities of CNF in exchange for their existing shares of TBS and additional funds. As a result, approximately \$109,639 was raised from existing investors of TBS.

19. During the Material Time, the Corporate Respondents were market intermediaries as defined in Ontario securities law as there was a predominant function at these entities to distribute securities in an organized fashion.

20. The actions of the Corporate Respondents and Firestone in relation to the securities of TBS and CNF constituted the trading of securities without registration contrary to subsection 25(1) of the Act.

Illegal Distribution of Securities of CNF Contrary to Section 53(1) of the Act

21. Neither CNF Candy nor CNF Food has ever filed a prospectus or a preliminary prospectus with the Commission or obtained receipts for them from the Director as required by subsection 53(1) of the Act.

22. The trading of securities of CNF Candy and/or CNF Food as set out above constituted distributions of these securities by the Corporate Respondents and Firestone in circumstances where there were no exemptions available to them under the Act contrary to subsection 53(1) of the Act.

Misleading Statements Made to the Commission Contrary to Section 122(1)(a) of the Act

23. Firestone was interviewed by Commission Staff appointed to investigate this matter on March 24, 2010 and May 28, 2010 (the "Examinations"). Firestone provided sworn testimony at the Examinations and the Examinations were transcribed by a court reporter.

24. Firestone was subsequently interviewed on December 3, 2010 and, when confronted with evidence that contradicted certain statements Firestone made at the Examinations respecting material facts, Firestone declined to answer Staff's questions.

25. Firestone later acknowledged that during the Examinations Firestone made statements to Staff that in a material respect and at the time and in the light of the circumstances, were misleading or untrue and did not state facts that were required to be stated or that were necessary to make the statements and evidence not misleading.

26. Firestone's actions caused Staff to incur additional costs investigating this matter.

27. Firestone made the misleading and untrue statements as a result of personal circumstances and the statements were not designed to, and in effect did not, excuse Firestone's conduct. Nevertheless, Firestone acknowledges the seriousness of his actions in making the misleading and untrue statements.

28. This conduct was contrary to subsection 122(1)(a) of the Act.

PART IV – RESPONDENT'S POSITION

29. The allegations against Firestone, as detailed in Staff's Statement of Allegations, Amended Statement of Allegations and Further Amended Statement of Allegations, do not include allegations of fraud or misappropriation of investor funds.

30. It is Firestone's position that CNF was a legitimate business venture and that Firestone made good faith efforts to turn CNF into a profitable business and to create a return on investment for himself and the CNF shareholders.

PART V - CONDUCT CONTRARY TO THE PUBLIC INTEREST

31. By engaging in the conduct described above, Firestone and the Corporate Respondents admit and acknowledge that they contravened Ontario securities law during the Material Time in the following ways:

- (a) During the Material Time, Firestone and the Corporate Respondents traded in securities without being registered to trade in securities, contrary to subsection 25(1) of the Act and contrary to the public interest;
- (b) During the Material Time, Firestone and the Corporate Respondents traded in the securities of CNF Candy and CNF Food when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for the CNF Candy or CNF Food securities by the Director, contrary to subsection 53(1) of the Act and contrary to the public interest;
- (c) Firestone made statements to Commission Staff appointed to investigate this matter which were materially misleading and/or untrue, contrary to subsection 122(1)(a) of the Act and contrary to the public interest.

32. Firestone and the Corporate Respondents admit and acknowledge that they acted contrary to the public interest by contravening Ontario securities law as set out in sub-paragraphs 31 (a) to (c) above.

PART VI - TERMS OF SETTLEMENT

33. Firestone agrees to the terms of settlement listed below.

34. The Commission will make an order, pursuant to section 37 and subsection 127(1) of the Act, that:

- (a) the Settlement Agreement is approved;
- (b) trading in any securities by Firestone cease for 10 years from the date of the approval of the Settlement Agreement;
- (c) trading in any securities by any of the Corporate Respondents cease permanently from the date of the approval of the Settlement Agreement;

- (d) the acquisition of any securities by Firestone is prohibited for 10 years from the date of the approval of the Settlement Agreement with the exception that Firestone is permitted to acquire shares in a “private company” as defined in section 1 of the Act;
- (e) the acquisition of any securities by any of the Corporate Respondents is prohibited permanently from the date of the approval of the Settlement Agreement;
- (f) any exemptions contained in Ontario securities law do not apply to Firestone for 10 years from the date of the approval of the Settlement Agreement;
- (g) Firestone is reprimanded;
- (h) Firestone is prohibited for 10 years from the date of the approval of the Settlement Agreement from becoming or acting as a director or officer of any reporting issuer, registrant, or investment fund manager or any issuer that engages in a distribution to the public;
- (i) Firestone is prohibited for 10 years from the date of the approval of the Settlement Agreement from becoming or acting as a registrant, as an investment fund manager or as a promoter; and,
- (j) Firestone shall disgorge to the Commission the amount of \$109,637.50 obtained as a result of his non-compliance with Ontario securities law, to be paid to or for the benefit of third parties designated by the Commission, pursuant to subsection 3.4(2)(b) of the Act;
- (k) Firestone shall pay an administrative penalty in the amount of \$25,000 for his failure to comply with Ontario securities law, to be paid to or for the benefit of third parties designated by the Commission, pursuant to subsection 3.4(2)(b) of the Act;

(l) Firestone is prohibited for 15 years, from the date of the approval of the Settlement Agreement, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities, apart from telephoning his own registered dealer; and

(m) Notwithstanding the provisions of paragraph 34 herein, once Firestone has fully satisfied the terms of sub-paragraphs (j) and (k) above, Firestone shall be permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer; and provided that Firestone provides Staff with the particulars of the accounts in which such trading is to occur (as soon as practicable before any trading in such accounts occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and Firestone shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to trading in the accounts directly to Staff at the same time that such notices are provided to him.

35. Firestone and the Corporate Respondents undertake to consent to regulatory Orders made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 34 (b) to (i) and (l) above.

PART VII - STAFF COMMITMENT

36. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Firestone or the Corporate Respondents in relation to the facts set out in Part III herein, subject to the provisions of paragraph 37 below.

37. If this Settlement Agreement is approved by the Commission, and at any subsequent time Firestone fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Firestone and/or the Corporate Respondents 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

38. 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 Firestone for the scheduling of the hearing to consider the Settlement Agreement.

39. Staff, Firestone and the Corporate Respondents agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding the conduct of Firestone and the Corporate Respondents in this matter, unless the parties agree that further facts should be submitted at the settlement hearing.

40. If this Settlement Agreement is approved by the Commission, Firestone and the Corporate Respondents agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

41. If this Settlement Agreement is approved by the Commission, the parties will not make any public statements that are inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

42. Whether or not this Settlement Agreement is approved by the Commission, Firestone and the Corporate Respondents agree that they 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

43. 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 Firestone and the Corporate Respondents leading up to its presentation at the settlement hearing, shall be without prejudice to Staff, Firestone and the Corporate Respondents; and
- (b) Staff, Firestone and the Corporate Respondents 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.

44. 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 Firestone and Staff or as may be required by law.

PART X - EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated this 22 day of September, 2011.

Signed in the presence of:

'Michael Wistuba'

'Ari Jonathan Firestone'

Witness

Ari Jonathan Firestone

Personally and on behalf of TBS New Media Ltd., TBS New Media PLC, CNF Food Corp., and CNF Candy Corp.

Dated this 23 day of September, 2011

STAFF OF THE ONTARIO SECURITIES COMMISSION

'Tom Atkinson'

Tom Atkinson
Director, Enforcement Branch

Dated this 23rd day of September, 2011

SCHEDULE A



Ontario
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P.O. Box 55, 19th Floor
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**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF
TBS NEW MEDIA LTD., TBS NEW MEDIA PLC, CNF FOOD CORP., CNF CANDY
CORP., ARI FIRESTONE and MARK GREEN**

- AND -

**IN THE MATTER OF A SETTLEMENT AGREEMENT BETWEEN STAFF OF THE
ONTARIO SECURITIES COMMISSION AND ARI FIRESTONE, TBS NEW MEDIA
LTD., TBS NEW MEDIA PLC, CNF FOOD CORP. and CNF CANDY CORP.**

**ORDER
(Sections 37 and 127)**

WHEREAS on September 3, 2010, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to sections 37, 127, and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), in respect of TBS New Media Inc., TBS New Media PLC (“TBS PLC”), CNF Food Corp. (“CNF Food”), CNF Candy Corp. (“CNF Candy”), Ari Jonathan Firestone (“Firestone”) and Mark Green;

AND WHEREAS the Notice of Hearing dated September 3, 2010 was issued in connection with the allegations as set out in the Statement of Allegations of Staff of the Commission dated September 3, 2010;

AND WHEREAS on September 9, 2010, an Amended Statement of Allegations was filed with the Commission which removed TBS New Media Inc. and added TBS New Media Ltd. (“TBS New Media”) as a respondent;

AND WHEREAS a Further Amended Statement of Allegations was filed with the Commission on September 22, 2011.

AND WHEREAS Firestone, TBS New Media, TBS PLC, CNF Food and CNF Candy (the “Respondents”) entered into a Settlement Agreement with Staff of the Commission dated , 2011 (the "Settlement Agreement") in which the Respondents agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated September 3, 2010, subject to the approval of the Commission;

AND WHEREAS on , the Commission issued a Notice of Hearing pursuant to sections 37 and 127 of the Act to announce that it proposed to hold a hearing to consider whether it is in the public interest to approve a settlement agreement entered into between Staff and the Respondents;

AND WHEREAS the Commission reviewed the Settlement Agreement and heard submissions from the parties;

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 2 of subsection 127(1) of the Act, trading in any securities by Firestone cease for a period of 10 years from the date of this Order;

- (c) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by any of TBS New Media, TBS PLC, CNF Candy and CNF Food cease permanently from the date of this Order;
- (d) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Firestone is prohibited for a period of 10 years from the date of this Order with the exception that Firestone is permitted to acquire shares in a “private company” as defined in section 1 of the Act;
- (e) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by any of TBS New Media, TBS PLC, CNF Candy and CNF Food is prohibited permanently from the date of this Order;
- (f) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Firestone for a period of 10 years from the date of this Order;
- (g) pursuant to clause 6 of subsection 127(1) of the Act, Firestone is reprimanded;
- (h) pursuant to clauses 8, 8.2, and 8.4 of subsection 127(1) of the Act, Firestone is prohibited for a period of 10 years from the date of this Order from becoming or acting as a director or officer of any reporting issuer, registrant, or investment fund manager or any issuer that engages in a distribution to the public;
- (i) pursuant to clause 8.5 of subsection 127(1) of the Act, Firestone is prohibited for a period of 10 years from the date of this Order from becoming or acting as a registrant, as an investment fund manager or as a promoter;

- (j) pursuant to clause 10 of subsection 127(1) of the Act, Firestone shall disgorge to the Commission the amount of \$109,637.50 obtained as a result of his non-compliance with Ontario securities law, to be paid to or for the benefit of third parties designated by the Commission, pursuant to subsection 3.4(2)(b) of the Act;
- (k) pursuant to clause 9 of subsection 127(1) of the Act, Firestone shall pay an administrative penalty in the amount of \$25,000 for his failure to comply with Ontario securities law, to be paid to or for the benefit of third parties designated by the Commission, pursuant to subsection 3.4(2)(b) of the Act;
- (l) pursuant to subsection 37(1) of the Act, Firestone is prohibited for a period of 15 years from the date of this Order from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities, apart from telephoning his own registered dealer; and
- (m) Notwithstanding the provisions of this Order, once Firestone has fully satisfied the terms of sub-paragraphs (j) and (k) above, Firestone is permitted to trade for his own account, solely through a registered dealer or, as appropriate, a registered dealer in a foreign jurisdiction (which dealer must be given a copy of this Order) in (a) any "exchange-traded security" or "foreign exchange-traded security" within the meaning of National Instrument 21-101 provided that he does not own beneficially or exercise control or direction over more than 5 percent of the voting or equity securities of the issuer(s) of any such securities; or (b) any security issued by a mutual fund that is a reporting issuer; and provided that Firestone provides Staff with the particulars of the accounts in which such trading is to occur (as soon as practicable before any trading in such accounts occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and Firestone shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to trading in the accounts directly to Staff at the same time that such notices are provided to him.

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DATED AT TORONTO this day of , 2011.
