



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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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  
RICHVALE RESOURCE CORPORATION, MARVIN WINICK, HOWARD  
BLUMENFELD, JOHN COLONNA, PASQUALE SCHIAVONE, and  
SHAFI KHAN**

**- AND -**

**IN THE MATTER OF A SETTLEMENT AGREEMENT  
BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION  
AND MARVIN WINICK**

**PART I – INTRODUCTION**

1. By Notice of Hearing dated November 10, 2010, the Ontario Securities Commission (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 certain orders in respect of Marvin Winick (“Winick” or the “Respondent”).

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated November 10, 2010 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

**PART III – AGREED FACTS**

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authorities in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

**A. RICHVALE RESOURCE CORPORATION**

4. Richvale Resource Corporation (“Richvale”) was incorporated in 2002 under the name Tess Security Services (2002) Inc., and changed names in August 8, 2008, to Richvale Resource Corporation.
5. At all material times, Richvale held itself out to be a mining and exploration company holding, exploring and developing mining interests in the Province of Quebec (the “Mining Claims”).
6. Richvale has never been registered with the Commission in any capacity.
7. Richvale has never filed a prospectus or a preliminary prospectus with the Commission.

**B. THE RESPONDENT**

8. Winick is a resident of Ontario and was at all material times an officer and one of the directing minds of Richvale.
9. Winick invested no money in Richvale.

**C. TRADING IN SECURITIES OF RICHVALE**

10. Between and including August 8, 2008, and December 31, 2009, (the “Material Time”) Winick traded and engaged or held himself out as engaging in the business of trading in securities of Richvale in the Province of Ontario.
11. Winick was not registered with the Commission in any capacity during the Material Time.
12. During the Material Time, Winick was aware that residents of several Canadian provinces received unsolicited phone calls from salespersons, agents and representatives of Richvale and were solicited to purchase shares of Richvale.
13. Winick was aware that the salespersons, agents and representatives of Richvale told potential investors that Richvale would be going public in the future. Potential investors were also told that Richvale owned certain properties in the Province of Quebec (the “Mining Claims”).
14. During the Material Time, approximately \$753,000 (the “Investor Funds”) was received from approximately 27 individuals and companies (collectively, the “Investors”) who purchased shares

of Richvale as a result of being solicited by the salespersons, agents and representatives of Richvale. The Investors were resident in several Canadian provinces.

15. The Investor Funds were sent to bank accounts held by Richvale at the Royal Bank of Canada (“RBC”) and the Bank of Nova Scotia (the “Richvale Bank Accounts”). The Richvale Bank Accounts were both located in Ontario.
16. During the Material Time, Winick, together with Howard Blumenfeld (“Blumenfeld”) was a signatory to Richvale’s account at the Bank of Nova Scotia; (the “BNS Account”), into which over \$370,000 of the Investor Funds were deposited, primarily from August to December 2009.
17. The remaining approximately \$380,000 in Investor Funds, which were raised prior to August 2009, were deposited into Richvale’s RBC account (the “RBC Account”). Winick was not a signatory to Richvale’s RBC Account.
18. As a directing mind and officer of Richvale, Winick participated in acts, solicitations, conduct, or negotiations directly or indirectly in furtherance of the sale or disposition of previously unissued securities for valuable consideration, in circumstances where there were no exemptions available under the Act.

#### **D. FRAUDULENT CONDUCT**

19. During the Material Time, Winick and Richvale provided information to the Investors that was false, inaccurate and misleading, including, but not limited to, the following:
  - (a) that Richvale would be going public on a stock exchange in a matter of weeks;
  - (b) that the net proceeds of the sale of Richvale securities would be used primarily for costs associated with the exploration of the properties owned by Richvale, for ongoing operations and to acquire other properties or entities;
  - (c) that Richvale claimed that they “build value by enhancing our operation, building new projects and pursuing exploration opportunities”;
  - (d) that Richvale held the Mining Claims during the Material Time when Richvale had allowed some of the Mining Claims to expire;

- (e) that a certain group of the Mining Claims had a specific valuation of \$2.7 million when there was no such valuation;
  - (f) that the Richvale website (the "Website") listed the Richvale "Greater Toronto Area Satellite Office" as being located at 8171 Yonge Street, Suite 11, Thornhill, Ontario, and listed office hours and a phone number, when this address was merely a UPS Store mailbox; and,
  - (g) that content on the Website was false or misleading to investors, including statements with respect to the compensation of directors and/or officers of Richvale and the business experience of directors and/or officers of Richvale, including Winick, and that material on the Website was copied from the websites of other companies.
20. These false, inaccurate and misleading representations were made with the intention of effecting trades in Richvale securities.
  21. Throughout the material period, Winick was aware that a Richvale salesperson, Shafi Khan ("Khan"), was selling Richvale securities to members of the public using the aliases "Dave Isaac" and "Sam Binder."
  22. Winick also personally spoke to at least one investor in Richvale securities on several occasions.
  23. As an officer and directing mind of Richvale, Winick was responsible for preparing corporate filings, financial statements and tax filings, and he also drafted employment agreements and other documents on behalf of Richvale.
  24. Winick was involved in the development of the Website and reviewed the content of the Website. Winick's son received \$2,000 of the Investor Funds to design the initial Website.
  25. As an officer and directing mind and one of the primary shareholders of Richvale, Winick was a signatory to an agreement that provided that 30 million shares of Richvale be divided equally among the founders of the company, not one of whom had invested any money in Richvale. Richvale treasury shares were sold to the public at a price of \$0.50 each.
  26. Between 30 and 50 percent of the Investor Funds were paid out as commissions to Richvale's salesperson, Khan, for the sale of Richvale securities. Winick was aware that neither the existence nor the magnitude of the sales commissions were disclosed to the Investors. Winick took no steps to ensure that Khan made the Investors aware of his commissions.

27. Over 70 percent of the Investor Funds were paid out to officers, directors, directing minds or employees of Richvale or removed from the Richvale Bank Accounts in the form of cash. Of the cash removed from the Richvale Bank Accounts, approximately \$185,000 was removed from the BNS Account while Winick and Blumenfeld were co-signatories to that account.
28. Only six percent of the Investor Funds were used to renew any of the Mining Claims.
29. Winick engaged in a course of conduct relating to securities that, as a directing mind and officer of Richvale, he knew would result in a fraud on persons purchasing securities of Richvale.

**E. BENEFITS ACCRUING TO WINICK**

30. As an officer and directing mind and one of the founders of Richvale, Winick was allotted 3.75 million shares of Richvale, as well as stock options.
31. Winick, members of his family, and associates received benefits derived from Richvale Investor Funds, including: funds in the amount of \$14,170, which were deposited into the account of his wife, funds in the amount of \$2,000, which were transferred to Winick's son, funds in the amount of \$14,200 and \$1,000, which were directed to associates of Winick as repayment of personal loans, amounting to an approximate value of \$29,500.
32. Winick received a further \$10,645 from Richvale drawn on Investor Funds in the form of five cheques issued to reimburse expenses incurred in the course of conducting the Richvale investment scheme.
33. The total amounts obtained that are traceable to Winick amount to an approximate value of \$42,000.

**F. PREVIOUS SECURITIES REGULATORY RECORD**

34. On June 30, 2006, Winick consented on a no-admit, no-deny basis to orders settling civil and administrative actions by the United States Securities and Exchange Commission ("SEC") in connection with forged Audit Reports and fraudulent Auditor Consent Letters in SEC filings by an Ontario company called Tekron Inc., Greentech USA, Inc. and Information Architects Corporation:
  - (a) In *SEC v. Marvin Winick, Tekron Inc. and Luigi Brun*, Civil Action No. 3:06 CV-1164-D, U.S.D.C./Northern District of Texas (Dallas Division), Winick consented to a judgement

enjoining him from violating, directly or indirectly, the antifraud provisions of the United States' *Securities and Exchange Act* (the "Exchange Act") and from aiding and abetting violations of the Exchange Act's reporting, books and records and internal control provisions. Winick further consented to an officer and director bar, and agreed to pay a civil penalty of \$100,000 and disgorgement of \$30,945, plus pre-judgement interest, and to surrender 50,000 shares in Information Architects which he received for his consulting work.

- (b) In settlement of the SEC's related administrative proceeding, *Gizmo Company, Smart World United Inc. Urban Entertainment Concepts International, Inc.* Exchange Act Rel. No. 34-54072 (June 30, 2006), Winick consented to an injunction order barring him from practicing before the SEC, and further consented to an order revoking the SEC registration of three shell companies under his control.

#### **PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST**

35. During the Material Time, Winick engaged or participated in acts, practices or a course of conduct relating to securities of Richvale that he knew perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act.
36. During the Material Time, Winick traded and engaged or held himself out as engaging in the business of trading in securities of Richvale in securities without being registered to do so, contrary to section 25(1) of the Act and its predecessor s. 25(1)(a).
37. During the Material Time, as a directing mind of Richvale, Winick acquiesced to representatives of Richvale making representations without the written permission of the Director, with the intention of effecting a trade in securities of Richvale, that such security would be listed on a stock exchange or quoted on any quotation and trade reporting system, contrary to section 38(3) of the Act.
38. During the Material Time, Winick committed acts in furtherance of the trading of securities of Richvale when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to section 53(1) of the Act.
39. During the Material Time, Winick being a directing mind of Richvale, authorized, permitted or acquiesced in the commission of the violations of sections 25, 38, 53 and 126.1 of the Act, as set

out above, by Richvale or by the employees, agents or representatives of Richvale, contrary to section 129.2 of the Act.

40. Winick's conduct was contrary to the public interest.

#### **PART V – THE RESPONDENT'S POSITION**

41. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances:

- (a) At the Settlement Hearing and before approval of this Settlement Agreement, Winick will provide Staff with certified funds in the amount of \$15,000 to be paid towards the disgorgement order and administrative penalty in this proceeding.

#### **PART VI – TERMS OF SETTLEMENT**

42. The Respondent agrees to the following terms of settlement listed below.

43. The Commission will make an order pursuant to sections 127(1) and 127.1 of the Act as follows:

- (a) the Settlement Agreement is hereby approved;
- (b) pursuant to clause 2 of subsection 127(1) of the *Act*, Winick shall cease trading in any securities permanently with the exception that immediately following full payment of the disgorgement order and administrative penalty set out herein:
- (i) Winick shall be permitted to trade securities through a registrant and only for the account of his registered retirement savings plan as defined in the Income Tax Act, 1985, c.1, as amended (the "*Income Tax Act*"), and,
  - (ii) Winick's permanent trading ban shall be reduced to a period of 20 years;
- (c) pursuant to clause 2.1 of subsection 127(1) of the *Act*, Winick shall cease acquisitions of any securities permanently, except that following full payment of the disgorgement order and administrative penalty set out herein:
- (i) Winick may acquire securities in connection with his registered retirement savings plan account (as defined in the *Income Tax Act*); and,

- (ii) Winick's permanent acquisition ban shall be reduced to 20 years;
- (d) pursuant to clause 3 of subsection 127(1) of the *Act*, any exemptions in Ontario securities law do not apply to Winick permanently, except that following full payment of the disgorgement order and administrative penalty set out herein:
  - (i) Winick may make use of the exemptions to the extent such they are necessary for trades undertaken in connection with his registered retirement savings plan account (as defined in the *Income Tax Act*) through a registrant; and,
  - (ii) Winick's permanent exemption ban shall be reduced to a period of 20 years;
- (e) pursuant to clause 6 of subsection 127(1) of the *Act*, that Winick be reprimanded;
- (f) pursuant to clause 8 of subsection 127(1) of the *Act*, that Winick is prohibited permanently from becoming or acting as a director or officer of any issuer;
- (g) pursuant to clause 8.5 of subsection 127(1) of the *Act*, that Winick is prohibited permanently from becoming or acting as a registrant;
- (h) pursuant to clause 9 of subsection 127(1) of the *Act*, that Winick pay an administrative penalty in the amount of \$160,000 for his non-compliance with Ontario securities law to be allocated under section 3.4(2)(b) to or for the benefit of third parties; and,
- (i) pursuant to clause 10 of subsection 127(1) of the *Act*, Winick disgorge to the Commission the amount of \$42,000 to be allocated under section 3.4(2)(b) to or for the benefit of third parties.

#### **PART VII – STAFF COMMITMENT**

- 44. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 45 , below.
- 45. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.



## **PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT**

46. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission, according to the procedures set out in this Settlement Agreement and the Commission's *Rules of Procedure*.
47. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
48. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
49. Whether or not the Commission approves this Settlement Agreement, Winick will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

## **PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT**

50. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
  - (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
  - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
51. All parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, all parties must

continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

**PART X – EXECUTION OF SETTLEMENT AGREEMENT**

52. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
53. A fax copy of any signature will be treated as an original signature.

**DATED** this 12<sup>th</sup> day of October, 2011.

**STAFF OF THE ONTARIO SECURITIES COMMISSION**

“Tom Atkinson”

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Director, Enforcement Branch  
Ontario Securities Commission

**MARVIN WINICK**

“Marvin Winick”

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Marvin Winick

**Schedule A**

**IN THE MATTER OF THE *SECURITIES ACT*  
R.S.O 1990, c. S.5, as amended**

**- AND -**

**IN THE MATTER OF  
RICHVALE RESOURCE CORPORATION, MARVIN WINICK, HOWARD  
BLUMENFELD, JOHN COLONNA, PASQUALE SCHIAVONE, and  
SHAFI KHAN**

**- AND -**

**IN THE MATTER OF A SETTLEMENT AGREEMENT  
BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION  
AND MARVIN WINICK**

**ORDER**

**WHEREAS** on November 10, 2010, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the “Act”) in respect of Marvin Winick (“Winick” or the “Respondent”);

**AND WHEREAS** on November 10, 2010, Staff of the Commission filed a Statement of Allegations;

**AND WHEREAS** the Respondent entered into a Settlement Agreement dated \*\* (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 \*\* setting out that it proposed to consider the Settlement Agreement;

**UPON** reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from the Respondent through their counsel 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:**

1. the Settlement Agreement is hereby approved;
2. pursuant to clause 2 of subsection 127(1) of the *Act*, Winick shall cease trading in any securities permanently with the exception that immediately following full payment of the disgorgement order and administrative penalty set out herein:

- (i) Winick shall be permitted to trade securities through a registrant and only for the account of his registered retirement savings plan as defined in the Income Tax Act, 1985, c.1, as amended (the “*Income Tax Act*”), and,
  - (ii) Winick’s permanent trading ban shall be reduced to a period of 20 years;
- 3. pursuant to clause 2.1 of subsection 127(1) of the *Act*, Winick shall cease acquisitions of any securities permanently, except that following full payment of the disgorgement order and administrative penalty set out herein:
  - (i) Winick may acquire securities in connection with his registered retirement savings plan account (as defined in the *Income Tax Act*); and,
  - (ii) Winick’s permanent acquisition ban shall be reduced to 20 years;
- 4. pursuant to clause 3 of subsection 127(1) of the *Act*, any exemptions in Ontario securities law do not apply to Winick permanently, except that following full payment of the disgorgement order and administrative penalty set out herein:
  - (i) Winick may make use of the exemptions to the extent such they are necessary for trades undertaken in connection with his registered retirement savings plan account (as defined in the *Income Tax Act*) through a registrant; and,
  - (ii) Winick’s permanent exemption ban shall be reduced to a period of 20 years;
- 5. pursuant to clause 6 of subsection 127(1) of the *Act*, that Winick be reprimanded;
- 6. pursuant to clause 8 of subsection 127(1) of the *Act*, that Winick is prohibited permanently from becoming or acting as a director or officer of any issuer;
- 7. pursuant to clause 8.5 of subsection 127(1) of the *Act*, that Winick is prohibited permanently from becoming or acting as a registrant;
- 8. pursuant to clause 9 of subsection 127(1) of the *Act*, that Winick pay an administrative penalty in the amount of \$160,000 for his non-compliance with Ontario securities law to be allocated under section 3.4(2)(b) to or for the benefit of third parties; and,

9. pursuant to clause 10 of subsection 127(1) of the *Act*, Winick disgorge to the Commission the amount of \$42,000 to be allocated under section 3.4(2)(b) to or for the benefit of third parties.

**DATED** at Toronto this \*\* of October, 2011.