



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

22<sup>nd</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

22e étage  
20, rue queen ouest  
Toronto ON M5H 3S8

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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  
JORGE NEHER**

**SETTLEMENT AGREEMENT**

**PART I - INTRODUCTION**

1. This matter concerns the failure by Jorge Neher (“Neher” or the “Respondent”) to comply with important policies in place at his firm aimed at maintaining the integrity of capital markets by ensuring confidential, material information is safeguarded and that trading is appropriately restricted in order to prevent impropriety or the appearance of impropriety.
2. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing (the “Notice of Hearing”) to announce that it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act* (the “Act”), it is in the public interest for the Commission to make certain orders against the Respondent in respect of the conduct described herein.

**PART II - JOINT SETTLEMENT RECOMMENDATION**

3. Staff of the Commission (“Staff”) recommend settlement of the proceeding (the “Proceeding”) against the Respondent commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part V of this Settlement Agreement. The Respondent consents to the making of an order (the “Order”) in the form attached as Schedule “A” to this Settlement Agreement based on the facts set out herein.

4. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

### **PART III - AGREED FACTS**

#### **A. BACKGROUND**

5. In the relevant period of 2014-2015, Neher was a partner in the Bogota, Colombia office of Norton Rose Fulbright (“NRF”), a major international law firm.

6. Neher was the lead partner for a firm client, which was an Ontario reporting issuer at all material times.

#### **B. DETAILED FACTS**

##### **NRF Policies**

7. On October 29, 2014, Neher was sent an email that also went to all members of NRF attaching a copy of the newly-adopted Norton Rose Fulbright Global Practices Standards policy by email. The policy applied worldwide to all members of the firm, including partners. The policy included policies on trading in publicly-listed securities (the “Trading Policy”). The Bogota office had not previously been subject to a similar policy regarding trading in publicly-listed securities.

8. The Trading Policy notes that a fundamental principle of securities legislation is that everyone investing in securities should have equal access to information that may affect their decision to trade in securities. The Trading Policy also notes:

Firm members, whether lawyers, agents or staff member, will undoubtedly become aware of material undisclosed information in the conduct of the firm’s business, either concerning a client or concerning a public company with which a client is dealing. It is critical that firm members preserve and maintain the confidentiality of this material undisclosed information and do not disclose this information to any third parties, except in accordance with applicable securities laws...This policy is designed to assist in preventing any impropriety or the appearance of any impropriety regarding a firm member trading in securities of a public company.

9. Further, the Trading Policy sets out, among other obligations:
  - (a) Firm members are required to report when they possess material, undisclosed information with respect to publicly-listed entities so that those entities could be added to the Black Book, a list of issuers for which trading of securities is prohibited; and
  - (b) Pre-clearance is required prior to any purchase or sale of securities of a public company or related derivative.
  
10. Despite being sent the October 29, 2014 email, Neher failed in his obligations to read, understand and comply with the Trading Policy as set out below.

#### **Prohibited Trading by Neher**

11. After the Trading Policy had been sent to him, Neher failed to seek pre-clearance of trades in shares of the client, which were conducted through a trading account located in Toronto, as required by the Trading Policy. This included purchases of the client's securities while those purchases were expressly prohibited due to the client having been placed on NRF's Black Book list. Neher had no personal knowledge that the client had been placed on this list, although he would have known this had he followed the Trading Policy. Neher's trades were part of an investment strategy in shares of the client that he had pursued since April 2014, before the Trading Policy was adopted and sent to him.

#### **PART IV - CONDUCT CONTRARY TO THE PUBLIC INTEREST**

12. The Respondent acknowledges and admits that,
  - (a) Policies like the Trading Policy are an important part of maintaining the integrity of capital markets by ensuring confidential, material information is safeguarded and that trading is appropriately restricted in order to prevent impropriety or the appearance of impropriety;
  - (b) As a lawyer, he is in a position of trust and is subject to a high professional standard to avoid any appearance of conflicts of interest and any appearance of

misuse of confidential information obtained in the course of the solicitor-client relationship. Neher should have taken reasonable steps to ensure that he was complying with NRF's policies before trading in publicly-listed securities of a client; and

- (c) Neher's conduct was contrary to the public interest as he failed to adhere to the high standard of conduct expected of him in the circumstances.

#### **PART V - TERMS OF SETTLEMENT**

- 13. The Respondent agrees to the terms of settlement set forth below.
- 14. The Respondent consents to the Order, pursuant to which it is ordered that:
  - (a) this Settlement Agreement be approved;
  - (b) trading in any securities or derivatives by the Respondent cease for a period of eighteen (18) months commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act;
  - (c) the acquisition of any securities by the Respondent be prohibited for a period of eighteen (18) months commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
  - (d) as an exception to the restriction on acquiring securities as provided in sub-paragraph (c) above, the Respondent shall be permitted to acquire any shares of a reporting issuer that are offered to him in exchange for shares of Greenstone Mining Corp. ("Greenstone") which he currently owns, as part of a reverse takeover transaction involving Greenstone, but he may not sell them during the eighteen-month period in which he is prohibited from trading in securities as provided in sub-paragraph (b) above;
  - (e) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

(f) the Respondent pay costs in the amount of \$20,000, pursuant to section 127.1 of the Act;

15. The Respondent consents 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 14(b)-(d). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

16. The Respondent acknowledges that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which the Respondent intends to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

17. The Respondent has given an undertaking (the “Undertaking”) to the Commission in the form attached as Schedule “B” to this Settlement Agreement, which includes an undertaking to make a voluntary payment to the Commission of \$10,000 to be designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act;

## **PART VI - FURTHER PROCEEDINGS**

18. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement or the Undertaking, in which case Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement or the Undertaking.

19. The Respondent acknowledges that, if the Commission approves this Settlement Agreement and the Respondent fails to comply with any term in it or the Undertaking, the Commission is entitled to bring any proceedings necessary.

## **PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT**

20. The parties will seek approval of this Settlement Agreement at a public hearing (the “Settlement Hearing”) before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission’s *Rules of Procedure* (2014), 37 O.S.C.B. 4168.
21. The Respondent will attend the Settlement Hearing in person.
22. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.
23. If the Commission approves this Settlement Agreement:
  - (a) the Respondent irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and
  - (b) 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.
24. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission’s jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

## **PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT**

25. If the Commission does not make the Order:
  - (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing 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 on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

26. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

**PART IX - EXECUTION OF SETTLEMENT AGREEMENT**

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

28. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

**DATED** at the City of Bogota, Colombia, this 12<sup>th</sup> day of May, 2017.

“Carmina Cepeda”

“Jorge Neher”

\_\_\_\_\_  
Witness: (print name): Carmima Cepeda

\_\_\_\_\_  
Jorge Neher

**DATED** at Toronto, Ontario, this 12<sup>th</sup> day of May, 2017.

**STAFF OF THE ONTARIO SECURITIES  
COMMISSION**

By: “Jeff Kehoe”

\_\_\_\_\_  
Name: Jeff Kehoe

Title: Director, Enforcement Branch

## SCHEDULE "A"



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### IN THE MATTER OF JORGE NEHER

**Timothy Moseley, Commissioner and Chair of the Panel**  
**Peter Currie, Commissioner**  
**Robert Hutchison, Commissioner**

**May \_\_, 2017**

#### **ORDER** **Sections 127 and 127.1 of the** ***Securities Act, RSO 1990, c S.5***

THIS APPLICATION, made jointly by Staff of the Commission and Jorge Neher for approval of a settlement agreement dated May \_\_, 2017 (the "Settlement Agreement"), was heard on May \_\_, 2017 at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario;

ON READING the Statement of Allegations dated May \_\_, 2017, and the Settlement Agreement, and on hearing the submissions of representatives for each of the parties, and on considering the Undertaking of the Respondent dated May \_\_, 2017, to make a voluntary payment to the Commission of \$10,000;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by the Respondent shall cease for a period of eighteen months commencing on the date of this Order, pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the "Act");
3. the acquisition of any securities by the Respondent is prohibited for a period of eighteen months commencing on the date of this Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;

4. as an exception to the restriction on acquiring securities as provided in clause 3 above, the Respondent shall be permitted to acquire any shares of a reporting issuer that are offered to him in exchange for shares of Greenstone Mining Corp. ("Greenstone") which he currently owns, as part of a reverse takeover transaction involving Greenstone, but he may not sell them during the eighteen-month period in which he is prohibited from trading in securities as provided in clause 2 above;
5. the Respondent shall be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and
6. the Respondent shall pay costs to the Commission in the amount of \$20,000, pursuant to section 127.1 of the Act.

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Peter Currie

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Timothy Moseley

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Robert Hutchison

**SCHEDULE “B”**



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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  
JORGE NEHER**

**UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION**

1. This Undertaking is given in connection with the settlement agreement dated May 12, 2017 (the “Settlement Agreement”) between Jorge Neher (the “Respondent”) and Staff (“Staff”) of the Commission. All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.
2. The Respondent undertakes to the Commission to:
  - a. make a voluntary payment to the Commission of \$10,000 to be designated for allocation or use by the Commission in accordance with section 3.4(2)(b) of the Act; and
  - b. provide to Staff two certified cheques in the amount of \$10,000 and \$20,000, respectively, prior to the settlement hearing, which will be held by Staff in escrow pending the approval of the Settlement Agreement.

**DATED** at the City of Bogota, Colombia, this 12<sup>th</sup> day of May, 2017.

“Carmina Cepeda”

“Jorge Neher”

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Witness: (print name): Carmima Cepeda

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**Jorge Neher**