

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

**- and -**

**GLEN HARVEY HARPER**

**STATEMENT OF ALLEGATIONS OF STAFF  
OF THE ONTARIO SECURITIES COMMISSION**

Further to a Notice of Hearing dated January 12, 2004, Staff of the Ontario Securities Commission (the "Commission") makes the following allegations:

**I. The Respondent**

1. Glen Harvey Harper ["Harper"] was a founder of Golden Rule Resources Inc. ["Golden Rule"]. In the period January 1997 to May 1997, and at other times, he was the President of Golden Rule and a member of the Board of Directors. During this period, Golden Rule was listed and posted for trading on the Toronto Stock Exchange.

**II. The Charges**

2. Pursuant to an information sworn on March 23, 1999 Harper was charged with the following offences:

(i) On or between the 3<sup>rd</sup> day of January, 1997 and the 6<sup>th</sup> day of March, 1997, at the City of Toronto, being a person in a special relationship with Golden Rule Resources Inc. ("Golden Rule"), a reporting issuer in the Province of Ontario listed and posted for trading on the Toronto Stock Exchange, did sell securities of Golden Rule, to wit: 227,600 shares for \$2,058,580 more or less, with the knowledge of a material fact with respect to Golden Rule that had not been generally disclosed contrary to ss.76(1) and 122(1)(c) of the *Securities Act*, R.S.O. 1990, c.S.5, as am.;

and further that,

(ii) On or between the 14<sup>th</sup> day of March, 1997 and the 6<sup>th</sup> day of May, 1997, at the City of Toronto, being a person in a special relationship with Golden Rule, a reporting issuer in the Province of Ontario listed and posted for trading on the Toronto Stock Exchange, did sell securities of Golden Rule, to wit: 197,102 shares for \$1,983,889 more or less, with the knowledge of a material fact with respect to Golden Rule that had not been generally disclosed contrary to ss.76(1) and 122(1)(c) of the *Securities Act*, R.S.O. 1990, c.S.5, as am. (the “Act”).

### **III. The Conviction and Sentence**

3. On July 21, 2000, following a four week trial before Mr. Justice Patrick A. Sheppard of the Ontario Court of Justice, Toronto Region, Harper was found guilty as charged.
4. On September 18, 2000 Harper was sentenced by Mr. Justice Sheppard to a period of one year imprisonment for each offence to be served concurrently and to a total fine of \$3,951,672.
5. On January 7, 2002 Harper’s appeal from conviction was dismissed by Mr. Justice Frank Roberts of the Superior Court of Justice (Toronto Region). Harper’s appeal from sentence was allowed: the term of imprisonment was reduced to six months on each count concurrent; the fine was reduced to \$2 million. A cross-appeal as to sentence brought by the Commission was dismissed. No further appeal was sought by Harper.
6. The Commission sought leave to appeal the decision of Roberts J. respecting the sentence imposed (both the term of imprisonment and the fine). On January 21, 2002 the Commission’s application for leave to appeal the sentence was granted, but only in respect of the fine portion of the sentence. Although Chief Justice McMurtry found that “in my view, the sentence that was imposed by the trial judge was within the appropriate range”, leave to appeal the term of imprisonment was denied on the ground that the Court was “unable to come to the conclusion that it is essential in the public interest and for the due administration of justice that leave to appeal be granted with respect to the custodial portion of the sentence imposed” as is required for leave pursuant to s.131(2) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as am. (the “POA”).
7. On October 31, 2003 the Court of Appeal for Ontario dismissed the Commission’s appeal from sentence and declined to interfere with the fine of \$2 million imposed by the summary conviction appeal judge. The Court of Appeal noted that in addition to the fine, Harper was also required to pay a \$400,000 “surcharge” as prescribed by s.60.1 of the *POA*.

#### **IV. The Findings**

8. In finding Harper guilty of insider trading, Mr. Justice Sheppard made a number of findings of fact which are set out in the Court's 30 page Reasons for Judgement. None of these findings were disturbed by either the Summary Conviction Appeal Court or the Court of Appeal. All of these findings are relied upon by Staff in this proceeding. These findings were summarized by the learned trial judge, as follows:

This court has found that the evidence establishes beyond a reasonable doubt that Harper is guilty as charged. The evidence before the Court supports a finding that, by any geological or investor standard, the 800 soil samples and the 37 Teck samples were material facts, and that Harper had knowledge of those facts at a time that he admits he was trading in shares of Golden Rule. The Court rejects Harper's claim that he did not believe that the 800 soil samples and the 37 Teck samples were material facts, and has found on the evidence his alleged belief to be neither genuine, nor reasonable. The Court has found that the evidence establishes that rather than disclosing this material information to the public, Harper held it back from public view. Many appropriate moments to share the material information with the public were shown in the evidence. Instead of providing complete information, Harper disclosed only selected information that supported the stated Golden Rule proposition that Stenpad potentially hosted a multi-million ounce gold deposit. At the same time, Harper sold into the public market millions of dollars of Golden Rule shares for his own or his immediate family's personal gain.

#### **V. Conduct Contrary to the Public Interest**

9. As a result of Harper being found guilty of violating ss.76(1) and 122 of the Act, Harper has engaged in conduct contrary to the public interest.

10. Staff reserves the right to make such other allegations as Staff may advise and the Commission may permit.

DATED AT TORONTO this 12<sup>th</sup> day of January, 2004.