

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

**- and -**

**IN THE MATTER OF  
FIRESTAR CAPITAL MANAGEMENT CORP.,  
KAMPOSSE FINANCIAL CORP., FIRESTAR INVESTMENT MANAGEMENT  
GROUP, MICHAEL CIAVARELLA AND MICHAEL MITTON**

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

Staff of the Ontario Securities Commission make the following allegations:

**The Respondents**

1. Michael Ciavarella is an individual who resides in the Province of Ontario.
2. Michael Mitton is an individual who resides in British Columbia and/or Ontario. Mitton has been convicted of at least 103 counts of fraud, many of which have involved securities fraud. Mitton and his wife, Janet Mitton, are currently subject to a 20 year cease trade order in British Columbia.
3. Kamposse Financial Corp. (“Kamposse”) is a corporation incorporated in Ontario with its head office in Richmond Hill, Ontario.

4. Firestar Investments Management Group (“Firestar Investments”) is a corporation incorporated in Ontario with its head office in Sudbury, Ontario. Michael Ciavarella is President and a Director of Firestar Investments.
5. Firestar Capital Management Corp. (“Firestar Capital”) is a corporation incorporated in Ontario with its head office in Toronto, Ontario. Michael Ciavarella is President, Secretary and a Director of Firestar Capital.

### **Background**

6. Pender International Inc. (“Pender”) is a company incorporated in Ontario with its head office in Thornhill, Ontario. Pender trades on the National Association of Securities Dealers Over the Counter Bulletin Board.
7. Pender has the same address and phone number as Kamposse.
8. Armistice Resources Ltd. (“Armistice”) is a corporation incorporated in Ontario with its head office in Thornhill, Ontario.
9. In July of 2004, Pender completed a private placement of US\$1.6 million at US \$0.50 per share. By press release dated October 27, 2004, Pender announced that those funds were used to acquire IMM Investments Inc., a private company, which became a wholly owned subsidiary of Pender. IMM owns approximately 30% of Armistice with rights to purchase up to 55%.
10. Pender acquired IMM from KJ Holding Inc. (“KJ Holding”), an Ontario corporation. As a result of the acquisition, KJ Holding acquired 36.5% of Pender’s issued and outstanding common stock. KJ Holding is wholly owned by Kalano Jang, the father of Kalson Jang, who is a director of Pender.

11. The only asset of Armistice and Pender is a mine in northern Ontario near Kirkland Lake. The mine is currently flooded with water. The financial statements of Armistice for the three month period ending September 30, 2004 reveal a deficit of \$29,598,630.
12. By press release dated October 28, 2004, Pender announced that it would be engaging Atlas Dewatering to dewater the mine, and it was expected that the dewatering would be completed in 4-6 weeks.
13. Pender has not released any further information about efforts to dewater the mine.
14. The only other substantive press release during the period June to November 2004 was the announcement that Pender, on October 25, 2004, had appointed Ciavarella as President and Director of Pender, and had appointed a new Board of Directors.

### **The Accounts**

15. Firestar Capital maintains an account at HSBC Securities (Canada) Inc. (“HSBC Securities”) and HSBC Bank Canada (“HSBC Bank”). Ciavarella has trading authority over the Firestar Capital account at HSBC Securities. Ciavarella and Kalson Jang are the principals of the Firestar Capital account at HSBC Bank.
16. Ciavarella maintains an account in his own name at HSBC Securities, Desjardins Securities Inc. (“Desjardins”) and TD Waterhouse Canada Inc. (“TD Waterhouse”).
17. Firestar Investment maintains an account at Desjardins and CIBC World Markets Inc. Ciavarella has trading authority over those accounts.
18. Kamposse maintains an account at HSBC Bank, RBC Dominion Securities Inc. (“RBC DS”) and CIBC World Markets. Ciavarella referred Kamposse to RBC DS. Karen Lam and Gwen Jang are the principals of the Kamposse account at HSBC Bank.

Karen Lam and Gwen Jang have trading authority over the Kamposse account at RBC DS. Karen Lam, Ciavarella and Gwen Jang have trading authority over the account at CIBC World Markets.

19. All of the above accounts (which will be referred to collectively as the "Accounts") are related to each other and/or related to insiders of Pender.

### **Trading in Pender**

20. In July of 2004, Pender was trading at approximately US \$0.08 per share. Prior to October 14, 2004, there had been no trading in the shares of Pender for some time. On October 14, 2004, the shares opened at US \$0.30 and closed at the same price on a volume of 12,000 shares traded. Over the next 35 trading days, the shares traded as high as US \$11.35 on a volume of over 2 million shares trading. This represents an increase in price of the shares of Pender of 3,783%.
21. None of the news releases issued by Pender were significant enough to cause the dramatic increase in the price and volume of Pender shares traded. Even if the news releases did have a marginal effect on the price, Pender did not release any news after October 28, 2004. There is therefore nothing to explain the rise in the share price after that date.
22. The increase in the share price of Pender was artificial and was caused by trading that was arranged between the Accounts.
23. Significantly, the Accounts largely stopped trading shares of Pender after the share price peaked at US \$11.35 on November 18, 2004. When the Accounts stopped trading the shares of Pender, the share price of Pender dropped dramatically.
24. Although all of the Accounts traded and/or funded the purchase of Pender stock, the main purchasing account was the Firestar Capital account at HSBC Securities and the

main selling account was the Kamposse account at RBC DS. Funds from Kamposse were transferred to the Firestar Capital account at HSBC Securities in order to finance the purchase of Pender shares.

25. As at September 30, 2004, the Kamposse account at RBC DS contained 318,000 shares of Pender with a market value of C \$26,087.61. During October and November of 2004, those shares were sold and total funds of US \$953,378 and C \$1,603,000 were withdrawn from the account.
  
26. In November of 2004, the Firestar Capital account at HSBC Securities purchased 392,000 shares of Pender, of which it sold 17,500, at a net cost of US \$3,557,343.37. It also deposited 200,000 shares of Pender into the same account. Four cheques totaling US \$2,324,000 that were deposited to the Firestar Capital account at HSBC Securities to pay for the purchases of the Pender shares were subsequently returned unpaid. As at November 30, 2004, the Firestar Capital US dollar account at HSBC was in a debit position of US \$2,822,700.75, which was offset by a credit position in the Firestar Capital CDN dollar account of \$293,590.

### **The Involvement of Mitton**

27. Ciavarella gave verbal instructions to the investment adviser to take trading instructions from Mitton for the Firestar Capital account at HSBC Securities. Mitton was present when the Kamposse account at RBC DS was opened. Mitton has claimed that the Kamposse account at HSBC Bank is his account.
  
28. At times, Mitton provided funds for the Firestar Capital account which included cheques drawn on the account of Kamposse at HSBC Bank. Mitton has claimed that at least some of the money being deposited to the Firestar Capital account to fund the purchases of Pender shares was his money.

29. When dealing with the Firestar Capital account at HSBC Securities and the Kamposse account at RBC DS, Mitton took steps to conceal his true identity, including using the alias "Michael Douglas".
30. Profits from the RBC DS account were deposited into Kamposse's bank account. Several payments were made from Kamposse's bank account to Janet Mitton.

### **Market Manipulation**

31. Staff allege that the above conduct was contrary to Ontario securities law and contrary to the public interest in that during the material time, trading in the shares of Pender was dominated by trading that was arranged between the Accounts in a way that created a misleading appearance of trading activity and artificially increased the share price of Pender.
32. Staff reserves the right to make such further allegations as Staff may advise and the Commission may permit.

**DATED at Toronto** this 21<sup>st</sup> day of December, 2004.