



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 BARRY LANDEN**

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

Staff of the Ontario Securities Commission (the “Commission”) make the following allegations:

**The Respondent**

1. From September to November of 2003 (the “Material Time”), Barry Landen (“Landen”) was the Vice-President, Corporate Affairs of Agnico Eagle Mines Limited (“Agnico”). Common shares of Agnico trade on the Toronto Stock Exchange (the “TSX”) and the New York Stock Exchange.

**Conviction Before the Ontario Court of Justice and Operation of Section 127(10) of the Act**

2. On October 24, 2008, following a trial in the Ontario Court of Justice conducted under the Provincial Offences Act, R.S.O. 1990, c.P.33, Justice Shamai found Landen guilty of one count of insider trading pursuant to s.76(1) and s.122(1) of the Act for the conduct described within.

3. On January 29, 2009, Justice Shamai sentenced Landen to a term of imprisonment of 45 days in jail and ordered him to pay a fine of \$200,000, thereby entering a conviction against Landen.

### **Background**

4. Agnico is a significant Canadian gold producer with operations located in Northwestern Quebec and exploration and development activities elsewhere in Canada and around the world. Agnico's largest asset is the ownership of the LaRonde Mine, which contains the largest gold deposit in Canada.

5. Jakmin Investments Limited ("Jakmin") is a corporation that held the investments of Paul Penna, the founder of Agnico. Mr. Penna is deceased, and Jakmin is controlled by a trust established under his Will.

6. During the Material Time, Landen was one of the trustees of Jakmin and exercised complete control over the business affairs and the investments of Jakmin. Landen was the only person who had trading authority over the investments of Jakmin. As of October 9, 2003, Jakmin owned 32,237 common shares of Agnico as part of its investment portfolio.

7. By virtue of their special relationship with Agnico, both Landen and Jakmin were insiders of Agnico during the material time.

### **Agnico Eagle's 2003 Third Quarter results and Long Term Forecasts**

8. Members of senior management of Agnico, including Landen, were aware on October 9, 2003 that the La Ronde mine was experiencing a reconciliation problem in its gold production in the third quarter of 2003 (the "Reconciliation Problem").

9. Also, early in October of 2003, members of senior management of Agnico, including Landen, were aware that Agnico might be required to lower its long term yearly gold production forecast.

10. The facts set out in paragraphs 7-8 (the “Material Information”) were material facts respecting Agnico that had not been generally disclosed to the public.

11. Agnico did not generally disclose the Material Information until it released its 2003 third quarter results on October 29, 2003. Included in this release was Agnico’s announcement that it would reduce the long-term gold production target at the LaRonde mine from 400,000 ounces per year to 300,000 ounces per year. At that time, Agnico also first disclosed the existence of the Reconciliation Problem that Landen became aware of on October 9, 2003.

12. On October 30, 2003, the common shares of Agnico opened on the TSX at \$15.80, a fall of approximately 14% from the closing price of October 29, 2003.

#### **Violations of the Act by Landen and Conduct Contrary to the Public Interest**

13. Commencing on October 10, 2003, Landen caused Jakmin to sell its common shares of Agnico on the following dates in the following amounts (the “Trades”):

<b>Date</b>	<b>Number of Common Shares Sold</b>	<b>Price</b>
October 10, 2003	5,000	\$17.05
October 10, 2003	5,000	\$17.10
October 24, 2003	12,000	\$18.20
October 24, 2003	10,237	\$18.30

14. By the final trade on October 24, 2003, Landen had sold every single Agnico common share previously held by Jakmin.

15. The Trades were made by Landen at a time when he had knowledge of the Material Information which had not been generally disclosed. Accordingly, the Trades constituted illegal insider trading contrary to s. 76(1) of the Securities Act, R.S.O. 1990, c.S.5 (the "Act") and were contrary to the public interest.

16. In addition, an internal Agnico policy prohibited insiders of Agnico, including Landen and Jakmin, from trading in Agnico securities during a time period (the "Blackout Period") from the first day following the end of a quarter until two business days after the public disclosure of quarterly results. For the third quarter of 2003, the Blackout Period would have commenced on October 1, 2003 and continued until November 1, 2003. As a Vice President and an insider of Agnico, Landen would have been aware of this policy and was therefore also trading in Agnico securities during the Blackout Period contrary to Agnico policy. This conduct by Landen was also contrary to the public interest.

17. As a result of these trades orchestrated by Landen, Jakmin was able to avoid a loss in the amount of \$115,175 as calculated pursuant to s.122(6) of the Act.

18. Pursuant to paragraphs 1 and 2 of s.127(10) of the Act, the conviction of Landen by a judge of the Ontario Court of Justice for insider trading contrary to s.76(1) of the Act may form the basis for one or more orders in the public interest in Ontario under s. 127(1) of the Act.

19. Staff reserve the right to amend these allegations as they deem fit and the Commission may permit.

**DATED** at Toronto this 6th day of October, 2009.