



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

CP 55, 19e étage
20, rue queen ouest
Toronto ON M5H 3S8

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

-and-

IN THE MATTER OF IBK CAPITAL CORP. and WILLIAM F. WHITE

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

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

Background

1. The Respondent, IBK Capital Corp. (“IBK”) is a privately owned investment banking firm specializing in equity financing, including private placements. IBK is registered under the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), as an exempt market dealer.

2. William White (“White”) is the founder and the president of IBK. In 2003 and 2004, White owned approximately 50% of IBK and was registered as an officer and director of IBK. White is 65 years old.

Private Placements - South American Gold and Copper Company

3. In 2003 and 2004, IBK acted as the placement agent on three private placements for South American Gold and Copper Company (“SAG”).

4. SAG is an Ontario company listed on the TSX under the symbol "SAG". SAG is a mineral exploration and development company.

5. The term sheet for the first private placement was signed on October 15, 2003 ("PP1"). The term sheet for the second private placement was signed on November 19, 2003 ("PP2"). The term sheet for the third private placement was signed on September 16, 2004 ("PP3").

6. White was SAG's main contact at IBK during the time of PP1, PP2 and PP3.

PP1

7. On October 15, 2003, SAG executed a private placement term sheet with IBK, as placement agent, under which SAG proposed to raise up to \$3.5 million by issuing up to 50 million units priced at \$0.07 each (the "PP1 Term Sheet"). Each special warrant was to entitle the holder to acquire one common share of SAG and one half of one common share purchase warrant at an exercise price equal to \$0.09 per common share exercisable for two years from the closing date.

8. On November 10, 2003, SAG made a presentation to 75 brokers and accredited investors in Montreal. On November 11, 2003, SAG made a presentation to 90 brokers and accredited investors in Toronto. PP1 was discussed at the presentation in Toronto.

9. On November 12, 2003, IBK emailed the PP1 Term Sheet to approximately 230 institutions and accredited investors.

10. The financing for PP1 closed on November 27, 2003. By means of a press release dated December 2, 2003, SAG publicly announced the terms and closing of PP1.

11. On or before November 14, 2003, White became aware that PP1 was oversubscribed and communicated this information to SAG. SAG in turn sought permission that day from the TSX to increase the size of PP1, which request was denied.

PP2

12. On or about November 17, 2003, IBK sent a draft term sheet for a second private placement to SAG.

13. Upon receiving permission from the TSX, SAG executed a private placement term sheet with IBK on November 19, 2003 under which SAG proposed to raise up to \$3.15 million by issuing up to 40 million units priced at \$0.07875 each and IBK was to be the placement agent (the "PP2 Term Sheet"). Each special warrant was to entitle the holder to acquire one common share of SAG and one whole common share purchase warrant at an exercise price equal to \$0.105 per common share exercisable for three years from the closing date.

14. The effect of PP2 was to increase the share capital of SAG by 15% on a proforma basis and 31.3% on a fully diluted basis assuming the exercise of all warrants outstanding.

15. The combined effect of PP1 and PP2 was to increase the share capital of SAG by 33.7% on a proforma basis and 61.2% on a fully diluted basis assuming the exercise of all warrants outstanding.

PP2: Public Announcements/Material Change reports

16. The financing for PP2 closed on December 10, 2003.

17. By means of a press release dated December 12, 2003, SAG publicly announced the terms and closing of PP2.

18. A material change report in relation to PP2 was filed with the Commission on December 12, 2003.

Trading by White and IBK prior to the PP2 announcement

19. By November 17, 2003, White and IBK knew that PP1 was oversubscribed and that IBK had prepared a second private placement term sheet for SAG. On that date, White and IBK were also aware that SAG did not yet have permission from the TSX for the second private placement but White believed that SAG had a good business case for obtaining permission from the TSX for the second private placement. By November 19, 2003, White and IBK knew that the PP2 Term Sheet had been signed.

20. Each of the facts referred to in paragraph 19 above, constituted material facts about SAG which were not generally disclosed to the public when White and IBK engaged in the trading of SAG shares referred to below.

21. On November 17 and 18, 2003, White sold a total of 5,213,675 shares of SAG in his own name and 383,924 shares of SAG in the name of Kreative Ventures Limited (“Kreative”), a company owned jointly by White and his wife, through four separate sell orders.

22. On November 17 and 18, 2003, at White’s instruction, IBK sold a total of 8,153,781 shares of SAG held in the name of IBK through five separate sell orders. Approximately 50% of the sales were made for the benefit of IBK. The remaining sales were in relation to shares held in IBK’s house account on behalf of White and/or Kreative and/or other SAG shareholders.

23. From November 19, 2003 to December 1, 2003, at White’s instruction, IBK sold a total of 5,002,022 shares of SAG, held in IBK’s house account, on behalf of Stephen Houghton, the CEO of SAG, through seven separate sell orders.

24. On December 1, 2003, White sold 205,948 shares of SAG.

White and IBK's conduct contrary to the public interest and contrary to section 76 of the Act

25. During the period November 17, 2003 to December 1, 2003 when White and IBK traded in SAG shares,

- a. each of White and IBK were persons in a special relationship with SAG by virtue of subsections 76(5)(b) and/or 76(5)(e) of the Act; and
- b. they had knowledge of material facts with respect to SAG that were not generally disclosed.

26. Staff allege that White and IBK thereby breached subsection 76(1) and acted in a manner that was contrary to the public interest by trading in SAG shares from November 17, 2003 to December 1, 2003.

Failure to disclose the sale of SAG shares on TSX Private Placement Questionnaires

27. In addition to the conduct referred to above, Staff allege that White misled the TSX on six separate occasions in relation to his trading in SAG shares.

28. During the time of PP1, PP2 and PP3 referred to below, subsections 619(e) of Part VI of the TSX Manual entitled "Changes in Capital Structure of Listed Companies" required a listed company to file with the TSX, a Private Placement Questionnaire and Undertaking (the "TSX Questionnaire") completed by each proposed purchaser whereby the purchaser was required to disclose any dealings in the securities of the issuer, directly or indirectly, within the 60 days preceding the date of the TSX Questionnaire.

29. On five occasions, White used the wrong dates in completing TSX Questionnaires in relation to his purchase of PP2 and PP3 units. The effect of this was to mislead the TSX that he had no dealings in shares of SAG in the 60 days prior to his purchase of PP2 and PP3 units, when in fact, in both cases, he has sold a large number of SAG shares prior to purchasing PP2 and PP3 units.

30. White signed a sixth TSX Questionnaire in relation to his purchase of PP3 units with a date of October 25, 2004 and again, represented that he had no dealings with the securities of SAG within the 60 days preceding the date of the questionnaire. In fact, White had sold over 1.6 million shares of SAG within the 60 days preceding October 25, 2004.

31. Staff allege that it was contrary to the public interest and unbecoming of a registrant for White to mislead the TSX by failing to disclose his sale of SAG shares in the six TSX Questionnaires referred to above.

IBK's failure to maintain policies and procedures and to properly supervise the trading activities of White

32. During the time of the trading referred to above, IBK did not have in place any internal lists prohibiting trading in securities of a reporting issuer by IBK, its officers, directors or employees when IBK was in possession of a material fact in relation to the issuer. Staff allege that IBK's failure to implement policies and procedures directed at compliance with section 76 of the Act during the time of the trading referred to above, constituted conduct contrary to the public interest.

33. Staff further allege that IBK failed to properly supervise the trading activities of White referred to above contrary to section 3.1 of OSC Rule 31-501 and contrary to the public interest.

34. Such additional allegations as Staff may submit and the Commission may permit.

Dated at Toronto this 12th November, 2009