

THE SECURITIES ACT

Section 148

)
)
)

Order No. 6651

February 25, 2013

CLAUDE J. MARTEL

WHEREAS:

(A) On February 20, 2013, The Manitoba Securities Commission ("Commission") issued a Notice of Hearing ("Notice") giving notice of its intention to hold a hearing to consider, inter alia, whether or not it was in the public interest to order, pursuant to section 148 of The Securities Act ("Act"), that a Settlement Agreement between staff of the Commission ("Staff") and Claude J. Martel ("MARTEL") be approved;

(B) Staff of the Commission and MARTEL entered into a Settlement Agreement (a copy of which is attached as Schedule "A") dated February 12, 2013 ("Settlement Agreement"), which proposed settlement of an enforcement matter, subject to the approval of the Commission;

(C) MARTEL has consented to the issuance of this Order and has waived his right to a full hearing;

(D) On February 25, 2013, the Commission held a hearing ("Settlement Hearing") to consider whether or not to approve the Settlement Agreement;


(E) At the Settlement Hearing, the Commission approved the Settlement Agreement and the Commission is of the opinion that it is in the public interest to make this order.

IT IS ORDERED:

1. **THAT** the Settlement Agreement, Schedule "A", be and the same is hereby approved.

2. **THAT**, pursuant to section 148 of the Act, MARTEL undertakes to the Commission that for a period of five (5) years from the date of this Order, MARTEL will not place any trades on any accounts with any firm including any discount brokerage account within fifteen (15) minutes of the close of any trading day, nor will he cause anyone else on his behalf to do so.

BY ORDER OF THE COMMISSION


Director



THE MANITOBA
SECURITIES
COMMISSION

SCHEDULE "A"

Settlement Agreement

Claude J. Martel

and

Staff of The Manitoba Securities Commission

The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, Manitoba
R3C 4K5

SETTLEMENT AGREEMENT

A. Introduction

- A1. By way of a Notice of Hearing to be issued ("NOH"), The Manitoba Securities Commission ("Commission") will give notice of its intention to hold a hearing to consider whether pursuant to The Securities Act ("Act") it is in the public interest for the Commission to make an order approving the settlement agreement contained herein entered into between staff of the Commission ("Staff") and the respondent Claude J. Martel ("Settlement Agreement").
- A2. Discussions have been held between the respondent and Staff in an effort to settle all issues in connection with an enforcement matter in respect of conduct or alleged conduct of the respondent in relation to the facts set out in Part B. of this Settlement Agreement ("Enforcement Matter"). A settlement of the Enforcement Matter has been reached based on the terms and conditions set forth in this Settlement Agreement.
- A3. Pursuant to the settlement, Staff agree to recommend to the Commission that the Enforcement Matter against the respondent be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. The respondent consents to the settlement and to the making of the consent order referred to in Part D. below, on the terms and conditions set forth in this Settlement Agreement.

B. Statement of Facts

Background -

- B1. Claude J. Martel ("MARTEL") is an individual residing at all material times in Manitoba.
- B2. At all material times, MARTEL was a retired commercial glass salesman. MARTEL has never been registered under The Securities Act ("Act") in any capacity.
- B3. At all material times, Silver Wheaton Corp. ("Silver Wheaton") was a public mining company.
- B4. At all material times, the shares of Silver Wheaton were traded on the Toronto Stock Exchange ("TSX") and the New York Stock Exchange. Its warrants were traded on the TSX only. Silver Wheaton's series B Warrants were traded under the symbol SLW.WT.B.
- B5. At all material times, Franco-Nevada Corporation ("Franco-Nevada") was a corporation in the business of generating revenues through royalty holdings predominantly in gold mines.
- B6. At all material times, shares of Franco-Nevada and two series of its Warrants traded on the TSX. The Warrants specifically exercisable on or before March

13, 2012 at \$32.00 per share were traded under the symbol FNV.WT ("Franco-Nevada Warrants").

Trading Activity -

- B7. In or about 1998, MARTEL opened a personal Canadian dollar discount margin account ("Martel's Account") with TD Waterhouse, Discount Brokerage ("TD").
- B8. For the purposes of calculating the available margin in Martel's Account, SLW.WT.B and FNV.WT were valued at the best bid price at the end of the day.
- B9. In general, when the price of a stock falls below the margin value, the client will get a margin call, requiring an injection of cash, to be used in payment towards the amount borrowed, failing which securities in the account will be sold to generate the cash.
- B10. For Martel's Account, the brokerage's margin requirements for SLW.WT.B and FNV.WT were:

Warrants trading under \$3.00 could not be margined;
Warrants trading at or above \$3.00 could be margined to 50%.

- B11. In January 2009 ("Period of High Closing"), MARTEL placed the following buy orders electronically:

	Date (Buy Order)	Time (Buy order)	Size (Buy order)	Stock	Bid Price (Buy Order)	Quote Prior to Order – Highest Bid	Quote Prior to Order – Lowest Ask Price	Closing Bid? (Buy Order)	Bid Price Increase - Increase In Marginable Price
1	Jan 7	15:59:14.03	500	SLW.WT.B	\$3.00	\$2.98	\$3.03	**No	\$0.02
2	Jan. 14	15:59:34.05	100	FNV.WT	\$3.00	\$2.86	\$4.08	Yes	\$0.14
3	Jan. 15	15:59:24.86	100	SLW.WT.B	\$3.01	\$2.90	\$3.05	Yes	\$0.11
4	Jan. 27*	15:55:39.67	200	SLW.WT.B	\$3.01	\$2.61	\$3.39	**No	\$0.40
5	Jan. 27	15:58:55.10	200	SLW.WT.B	\$3.01	\$2.61	\$3.39	Yes	\$0.40

* Filled and followed by another identical buy order at 15:58, which was unfilled and established best bid at end of day.

** Attempted to high close.

- B12. All of the above MARTEL bids were Day orders, expiring by default at the end of the trading day.
- B13. The TSX closes daily at 16:00 (Eastern Time).

- B14. All of the above MARTEL bids were made in the last 5 minutes of the trading day. Three such bids were made in the last minute; one bid was made in the last two minutes and was made after an identical bid of MARTEL's placed in the last five minutes had been filled by a matching sell order entered at almost the same time.
- B15. The size of each of the bids was smaller than the size of bids historically made by MARTEL.
- B16. Each of the buy orders shown above resulted in raising the best bid price and three of them established the closing bid price for the day.
- B17. In January of 2009, MARTEL suffered forced credit sell-outs totalling \$51,000 to cover margin deficit.
- B18. MARTEL had previously, in October 2008, suffered forced credit sell-outs totalling over \$155,000.

C. Acknowledgements

C1. MARTEL acknowledges that during the Period of High Closing he engaged in trading activity by which he intended to and in some cases did raise the price of the securities in question as described above for the purpose of avoiding a margin call(s), that he now understands such conduct is a form of market manipulation, and that therefore the terms of settlement are in the public interest.

C2. Staff acknowledge the cooperation of MARTEL during the investigation.

D. Terms of Settlement

D1. In order to effect a resolution of the issues raised by the Enforcement Matter, Staff and the respondent have entered into this Settlement Agreement. Upon this basis, Staff seek an order ("Consent Order") from the Commission pursuant to the Act that:

- (a) the Settlement Agreement be approved;
- (b) MARTEL undertakes to the Commission that for a period of five (5) years from the date of this Order, MARTEL will not place any trades on any accounts with any firm including any discount brokerage account within fifteen (15) minutes of the close of any trading day, nor will he cause anyone else on his behalf to do so.

E. Procedure for Approval of Settlement

E1. The approval of this Settlement Agreement and the making of the Consent Order set out in this Settlement Agreement shall be sought at a public hearing pursuant to the NOH to be issued.

