

ALBERTA SECURITIES COMMISSION
SETTLEMENT AGREEMENT AND UNDERTAKING

Citation: Solid Resources Ltd., Re, 2007 ABASC 362

Date: 20070611

Docket: E01027

Securities Act, R.S.A. 2000, c. S-4 (Act)

Solid Resources Ltd. and Alvin Adam Harter

Agreed Facts

Introduction

1. Staff of the Alberta Securities Commission (Staff and the Commission, respectively) conducted an investigation into allegations that Solid Resources Ltd. (Solid) and Alvin Adam Harter (Harter) breached the Alberta securities laws and acted contrary to the public interest by engaging in illegal trades and distributions of securities.
2. The investigation confirmed and Solid and Harter admit that they breached those sections of the *Act* and Rules referred to in this Settlement Agreement and Undertaking (Agreement), and that they acted contrary to the public interest.
3. Solely for securities regulatory purposes in Alberta, and elsewhere, and as the basis for the settlement referred to in paragraph 27, Solid and Harter agree to the facts and consequences set out in this Agreement.
4. Terms used in this Agreement have the same meaning as provided in the Alberta securities laws, a defined term in the *Act*.

Parties

5. Solid was incorporated under another name in Alberta on December 3, 1986. It changed its name to Solid on October 31, 1988. Solid is a reporting issuer in Alberta, and its securities are listed for trading on the TSX Venture Exchange.
6. Pride Resources Ltd. (Pride) was incorporated in Alberta on June 28, 2001. Pride was dissolved on January 29, 2004.

7. Harter is 79 years old and resides in Ardrossan, Alberta. He has been a director of Solid since its creation in 1987 and the President of Solid since 1990. Harter was also a director of Pride and one of its founding shareholders.

Circumstances

Pride trading and distribution

8. Between November 2001 and July 2003 (the Relevant Period), Harter and others raised approximately \$1.1 million on behalf of Pride through the sale of Pride securities to approximately 40 Alberta and 4 Ontario residents.
9. The funds raised through the sale of Pride securities were used to pay expenses relating to Solid's ownership and exploration of properties in Spain. In return for paying those expenses, Pride was to receive 50% of the expected profits derived from those properties.
10. During the Relevant Period, Solid's financial position was deteriorating and it was unable to raise funds directly with investors. In March of 2002, several months into the Relevant Period, Solid sought protection from its creditors under the *Companies' Creditors Arrangement Act* (CCAA).
11. Harter admits that:
 - 11.1 the sale of the Pride securities represented trades in securities under the *Act*;
 - 11.2 as trades in securities of an issuer that had not been previously issued, the trades to the investors were distributions under the *Act*;
 - 11.3 at no time was a receipt for a preliminary or final prospectus issued by the Executive Director of the Commission (Executive Director) for the distribution of the Pride securities to investors;
 - 11.4 Harter was not registered with the Executive Director to sell securities; and
 - 11.5 he is now aware that there were no exemptions under the *Act* for most of the trades of Pride securities, and that he failed to exercise due diligence in making that determination prior to or at the time of those trades.
12. During the Relevant Period, Harter engaged in the following acts in furtherance of the trades in Pride's securities:
 - 12.1 in his capacity as a director of Pride, he signed the corporate resolutions which authorized the issuance of those shares;

- 12.2 he requested Tracy Lee Kroeker (Kroeker), an Alberta resident, to solicit investors to purchase the Pride securities;
 - 12.3 he made presentations to potential investors in which he promoted the sale of Pride's securities; and
 - 12.4 in his capacity as a director of Pride, he accepted funds from investors in exchange for Pride's securities.
- 13. Further, Harter admits that during the presentations he made to potential investors in Pride, he advised attendees that Pride would be applying for listing on an exchange. Harter admits that he did not have written permission of the Executive Director to make such a representation.
 - 14. After the trades were completed and Solid had emerged from the protection of the CCAA, Solid purchased the Pride securities by exchanging those shares on a 1 for 1 basis with shares in Solid.

Solid Resources Distribution

- 15. In the period leading up to May 14, 2003, Solid and Harter, with the assistance of others, completed the sale of 200,000 securities of Solid to 15 Alberta investors. As a result of their efforts, Solid and Harter raised approximately \$240,000.
- 16. Solid, through its counsel, filed a "Form 20" (pursuant to Multilateral Instrument 45-103) with the Executive Director, in which it claimed that each trade was exempt from the registration and prospectus requirement in the *Act* because each purchaser was either a close personal friend or a business associate of Kroeker, who was purported to be a director of Solid.
- 17. Solid and Harter admit that at least 12 of the 15 Solid investors did not meet the requirements of the claimed exemption.
- 18. Solid and Harter admit that:
 - 18.1 the sale of the Solid securities to the investors represented trades in securities under the *Act*;
 - 18.2 as trades in securities of an issuer that had not been previously issued, the trades to the Solid investors were distributions under the *Act*;
 - 18.3 at no time was a receipt for a preliminary or final prospectus issued by the Executive Director for the distribution of the Solid securities to the investors;

- 18.4 neither Solid nor Harter were registered with the Executive Director to sell securities; and
- 18.5 he is now aware that there were no exemptions under the *Act* for most of the trades of Solid securities, and that he failed to exercise due diligence in making that determination prior to or at the time of those trades.
- 19. During the Relevant Period, Harter engaged in the following acts in furtherance of the trades in Solid's securities:
 - 19.1 as the President and a director of Solid, Harter permitted Solid to sell the securities to the Solid investors; and
 - 19.2 he requested Kroeker to solicit investors to purchase the Solid securities.

Breaches

- 20. As a result of the conduct outlined above, in respect of the sale of Pride securities, Harter admits the following:
 - 20.1 that he breached subsection 75(1) of the *Act* by trading in securities of Pride with Alberta residents without being registered with the Executive Director;
 - 20.2 that he breached subsection 110(1) of the *Act* by distributing securities of Pride to Alberta residents without obtaining from the Executive Director a receipt for a preliminary or final prospectus;
 - 20.3 that he breached subsection 92(3) of the *Act* by advising potential investors in Pride that Pride would be applying for listing on an exchange; and
 - 20.4 that his role in the illegal trades and distributions of Pride securities, and his prohibited representation amounted to conduct that was contrary to the public interest.
- 21. As a result of the conduct outlined above, in respect of the sale of Solid securities, Solid and Harter admit the following:
 - 21.1 that they breached subsection 75(1) of the *Act* by trading in securities of Solid with Alberta residents without being registered with the Executive Director;
 - 21.2 that they breached subsection 110(1) of the *Act* by distributing securities of Solid to Alberta residents without obtaining from the Executive Director a receipt for a preliminary or final prospectus; and

- 21.3 that their respective roles in the illegal trades and distributions of Solid securities amounted to conduct contrary to the public interest.

Other Relevant Circumstances

22. In 1995, Harter, in his capacity as an officer and a director of the companies identified below, admitted to the following violations (Prior Violations) of the *Act* as then in force:
- 22.1 illegal trading and distribution of securities of Porta-Test Inc. to approximately 36 Alberta residents, raising approximately \$2,950,000;
 - 22.2 after obtaining an order from the Commission seeking exemption from certain provisions of the *Act*, Harter sold securities of Alberta Value Fund Inc. (AVF) to 38 investors without complying with the terms of the order; and
 - 22.3 as AVF was to be a “private mutual fund”, illegal trading of AVF securities to the 38 investors by virtue of the fact that the securities were sold to members of the public.
23. Harter and four other Respondents, in respect of the Prior Violations, tendered an aggregate voluntary payment of \$8,000 in respect of settlement, administrative, investigation and hearing costs and Harter and each of the Respondents undertook not to trade in any and all securities for a period of three months.
24. Solid has not been previously sanctioned by the Commission.
25. This Agreement has saved the Commission the time and expense associated with a contested hearing of the allegations against Solid and Harter under the *Act*.
26. Harter is beyond the age of being able to hold securities within a Registered Retirement Savings Plan.

Settlement Payments and Undertaking

27. Based on these facts and admissions, Solid and Harter undertake to the Executive Director upon execution of this Agreement to:
- 27.1 with respect to Harter, pay to the Commission the amount of \$40,000 in settlement of the allegations;
 - 27.2 with respect to Solid, pay to the Commission the amount of \$15,000 in settlement of the allegations;

- 27.3 to each pay to the Commission \$5,000 towards investigation costs;
- 27.4 with respect to Harter, refrain from trading in or purchasing securities for a period of 5 years, except for trades in or purchases of securities where Harter is the principal, and which are effected through Harter's account held with a registered dealer to whom Harter has first provided a copy of this Agreement;
- 27.5 with respect to Harter, refrain from using any exemptions in the Alberta securities laws for a period of 5 years, except in respect of trades which constitute a control distribution (as defined in the Alberta securities laws) that are made in accordance with paragraph 27.4; and
- 27.6 with respect to Harter, resign all positions he holds as a director and officer of any issuer and refrain from becoming or acting as a director or officer, or as both a director and officer, of any issuer for a period of 5 years, except for issuers that are wholly owned (directly or indirectly) by Harter or by Harter with another member (or members) of his immediate family.

Administration

28. Solid and Harter waive any rights existing under the *Act*, or otherwise, to a hearing, review, judicial review or appeal of this matter.
29. Solid and Harter acknowledge that this Agreement may be referred to in any other proceedings under the *Act*.
30. The Agreement resolves all issues involving Solid and Harter as described in the above paragraphs and Staff will take no further steps against Solid and Harter arising from these facts.
31. Solid and Harter will cooperate with Staff in the continuing proceedings against the remaining Respondents in the matter cited as *Solid Resources Ltd.*, 2006 ABASC 1701.
32. The Agreement may be executed in counterpart.

Signed by Alvin Adam Harter at
Edmonton, Alberta this 7th day of
June 2007, in the presence of:

Redacted
PRINT NAME

"original signed by"
SIGNATURE

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) "original signed by"
)

) Alvin Adam Harter
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Signed by Garnet Harter at
Edmonton, Alberta this 7th day of
June 2007, in the presence of:

Redacted
PRINT NAME

“original signed by”
SIGNATURE

Calgary, Alberta, June 11, 2007.

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) Solid Resources Ltd.
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) Per: original signed by”
) President
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) ALBERTA SECURITIES COMMISSION
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) “original signed by”
) _____
) David C. Linder
) Executive Director
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