IN THE MATTER OF PART 3 OF THE
***LEGAL PROFESSION ACT*, RSA 2000, c. L-8**

AND

IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF JOHN C. ZANG
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee

Kathleen Ryan, KC – Chair
Sharilyn Nagina, KC – Bencher
Ike Zacharopoulos – Adjudicator

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)
John C. Zang – Self-represented

Hearing Dates

September 18-20, 2023

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview and Summary of Result

1. In 2014, John Zang (Zang), a Calgary lawyer and active member of the LSA, acted in his business dealings with K.C. Ltd. (KCL) in a manner that brought the legal profession into disrepute. Zang's conduct is deserving of sanction.

2. Knowing of an extant cease trade order (CTO) from the Alberta Securities Commission respecting KCL shares, Zang facilitated the transfer of his personal and corporately held shares in KCL to another entity, a Delaware company newly incorporated by Zang. Zang's Delaware company was incorporated with virtually the same name as Zang's Alberta company. He took this approach to avoid the consequences of the CTO and to enable the shares to gain access to an over-the-counter exchange in the United States. To further this objective, Zang signed a fake share compensation agreement (SCA). It

had terms that Zang knew or ought to have known were false. Zang also completed a handwritten questionnaire respecting the shares which was also false and misleading in material respects. He passed off the SCA and questionnaire as valid to others, including U.S. legal counsel. He loaned KCL money which he knew, or ought to have known, would be used for a promotional campaign to artificially inflate the market for penny stock to the detriment of the public purchasers of the shares. He allowed P, a KCL insider and control person, to control Zang's personal and corporate shares and brokerage account to trade the artificially inflated shares. He did this to accomplish his objective of increasing market price with the goal of quickly generating upwards of $1,000,000.00 from his $30,000.00 investment. He allowed and directed his Canadian broker to facilitate the scheme to the broker's detriment and to the detriment of public purchasers of the stock. Zang admitted multiple breaches of the *Securities Act*, RSA 2000 c. S-14 in subsequent regulatory proceedings brought against him by the Alberta Securities Commission (ASC). He entered into a public settlement agreement with the ASC on November 12, 2019; he agreed to multiple sanctions (Settlement Agreement). The Settlement Agreement is public: *Re Zang*, 2019 ABASC 171 (CanLII).

3. Zang did not act as a lawyer in his dealings with KCL. He did not provide legal advice to KCL or others in connection with these matters. He did not use his trust account for the transfer of funds. Nevertheless, he assisted others, particularly KCL and P, in their illegal conduct and facilitated it in multiple ways, including the following:

    1) Taking P's direction to incorporate a U.S. company to avoid the CTO;
    2) Signing the fake SCA and misleading questionnaire;
    3) Misrepresenting the true state of KCL shares in the U.S. company;
    4) Giving P unfettered access to Zang's personal and corporate accounts to trade shares; and,
    5) Continuing to work with P to achieve artificially inflated values for KCL shares even after Zang knew or ought to have known the conduct was illegal.

    In doing so, Zang's conduct was beneath the standard reasonably expected for lawyers and brought the legal profession into disrepute.

4. Zang and the LSA entered an Agreed Statement of Facts (Agreed Facts) in these proceedings. It is appended to this report [Appendix A]. The Settlement Agreement is also appended [Appendix B].

5. The LSA relies on the Agreed Facts. The LSA also relies on the Settlement Agreement, other aspects of the ASC evidence, its own investigation, as well as other admissions and evidence from Zang to support the citation.

6. Zang disputed the citation. He submitted that much of the tendered ASC evidence was inadmissible in these proceedings. Even if it were admissible, he stated that the admissions made were explainable and that he did not breach the *Securities Act.* In this regard, he wanted to relitigate the admissions he made in the ASC disciplinary process.

We, the Hearing Committee (Committee), find that we are entitled to accept the ASC evidence, particularly given the broad discretion for acceptance of evidence under s. 68 of the *Legal Profession Act*, RSA 2000 c. L-8 (*Act*). The evidence is reliable. Zang's own admissions parallel the ASC proceedings. We allowed Zang's evidence as to the reasons we ought not to accept this evidence; however, we find that evidence does not render the disputed evidence as inadmissible. We ought not disregard the admissions made respecting the breaches of the *Securities Act*. Likewise, we accept the ASC evidence tendered in these proceedings. In our view, it would be an abuse of process to expect the LSA to relitigate the merits of the ASC proceedings in the circumstances of this case. While the Settlement Agreement and ASC evidence are not, in and of themselves, proof of the LSA citation, they are *prima facie* evidence and are admissible for their truth herein.

7. Based on the entirety of the admissible evidence, the citation was proven by the LSA on a balance of probabilities. The Agreed Facts, Settlement Agreement, Zang's own admissions to the ASC and LSA, Zang's own records, and Zang's evidence before the Committee established that Zang's conduct brought the legal profession into disrepute. This conduct deserves sanction which will be addressed through a subsequent hearing.

Preliminary Matters – Alleged Reasonable Apprehension of Bias

8. By letter dated June 9, 2023, the LSA advised Zang of the composition of the Committee for this Hearing which was scheduled to commence on September 18, 2023. This letter also advised Zang to contact the hearing coordinator if he had any objections to the composition of the Committee on the grounds of reasonable apprehension of bias.

9. Over two months later, Zang raised a concern respecting the composition of the Committee. Initially, Zang objected to two members of the Committee; the objection was dismissed with reasons provided to Zang. Zang renewed but narrowed his objection to a single member of the Committee. He submitted a written application to the Committee with his affidavit sworn five calendar days (three business days) before the Hearing was scheduled to commence.

10. Zang objected to the Chair, Kathleen Ryan, KC, hearing this matter. Zang stated that an associate (A) in the offices of DP LLP, Ms. Ryan's law firm, had been in house counsel at the ASC at relevant times during the ASC proceedings. Zang admitted he had no reason to suggest Ms. Ryan would have any actual bias. Rather, he claimed there was a risk that A would share information with Ms. Ryan about the ASC proceedings. He submitted that this raised a reasonable apprehension of bias. Although not in his affidavit, Zang claimed at the Hearing that in the winter of 2016, he overheard someone discussing his matter at a restaurant in Calgary. Zang advised the Committee that he was in the restaurant, but he did not see the person's face. He believed that person was A, but could not be certain. He also said that A wrote an article about related 2021 proceedings years after the Settlement Agreement following the public release of the related ASC written decision

respecting KCL.

11. The evidence presented showed that A had worked at another law firm after the ASC and before being employed by DP. It also demonstrated that despite Zang's stated concerns about the alleged 2016 restaurant comments described above, in 2018 Zang emailed A, after A left ASC, and requested A's assistance with his defence in the ASC proceedings. The evidence also demonstrates that A declined to act for Zang citing a conflict.

12. There was no evidence that A had any involvement whatsoever in the LSA proceedings. Ms. Ryan also advised that she had never met A and the hearing materials were screened such that no one, other than Ms. Ryan and her administrative support staff, had access to them. The screen was in place before the Committee received any substantive hearing evidence.

13. Because there was no consensus respecting the evidence in advance of the Hearing, Zang and the LSA explained the background of the ASC proceedings to the Committee to assist the Committee's consideration of the allegation of reasonable apprehension of bias. It became apparent through that explanation that the ASC proceedings were concluded with Zang's consent. The matter had been concluded in 2019; Zang was represented by counsel. A had left the ASC well before the Settlement Agreement. Zang had asked A for legal assistance on the ASC proceedings while A was employed at a different law firm (not DP) and A declined due to a conflict but did not cite the basis for same. As a lawyer himself, Zang was aware that A was obliged to keep confidential any privileged matters while at the ASC and, further, that this professional obligation was not displaced by A's departure from the ASC. The Settlement Agreement was published on CanLII and had been publicly available for several years before this Hearing.

14. The test for reasonable apprehension of bias is well known. It was set out in *Al Ghamdi v Alberta*, 2016 ABQB 424, aff'd 2016 ABCA 324 (CanLII). In that case, Justice Hillier was the Case Management Judge respecting a matter where his former firm (and long-time partner) was counsel for one of the parties. The test was set out at paragraphs 55 and 56:

> The test for bias is well known:
>
> ...[would] a reasonable person, properly informed, viewing the matter realistically and practically, and having thought the matter through...think it more likely than not that the decision maker, whether consciously or unconsciously, would not decide fairly.
>
> *Point on the Bow Development Ltd v William Kelly and Sons Plumbing Contractors Ltd*, 2005 ABCA 10 at para 5

See also *Wewaykum [Indian Band v. Canada, [2003] 2 S.C.R. 259, 2003 SCC 45 (CanLII)]* at para. 60; *Committee for Justice and Liberty v National Energy Board*, 1976 CanLII 2 (SCC), [978] 1 SCR 369 at 94

The Court in *R v. A(JL)*, 2009 ABCA344 noted that the test is the perception of the reasonable person, not an observer with a suspicious mind or one that is too sensitive (para 8). Further, the Court noted the hypothetical reasonable person must know all the facts including internal court practices not observable by outsiders (para 21).

15. The onus was on Zang to establish a reasonable apprehension of bias. In this respect, Zang advised the Committee, "I've got no basis to show actual bias or an appearance of bias. But, again – so I'm not going to submit I can show that." Notwithstanding this admission, Zang continued to request that Ms. Ryan recuse herself on the basis of reasonable apprehension of bias. As Justice Hillier noted, citing *McElheran v. Canada*, 2006 ABCA 161 citing *Wewaykum*, "there is a strong presumption in favour of judicial impartiality." Justice Hillier's review of authorities and analysis, particularly at paragraphs 55 through 95, is helpful in considering the application before us.

16. The question was also considered in the context of law society disciplinary proceedings in *Law Society of Upper Canada v. Coad*y, 2008 ONLSHP 2. In *Coady*, one of the panel members practiced law at a firm that represented someone who had sued the impugned lawyer for professional negligence. The panel member later practiced law at a firm that acted for the lawyer in defence of that action and the panel member knew some of witnesses that were to testify. The panel considered the test and found no reasonable apprehension of bias.

17. We find on the evidence, and applying the requisite test set out in the authorities, there is no reasonable apprehension of bias.

18. A provided legal services to the ASC. The ASC is not a party to these proceedings. A was never involved in the LSA proceedings. Zang's ASC proceedings were fully concluded, voluntarily, by consent, and with legal representation. The results of same were a matter of public record.

19. Zang admitted that his only concern was that A might share information with the Chair respecting privileged matters respecting an employer at least twice removed from A's current employer. He appeared to accept the safeguards that were put in place and ethical obligations of both A and the Chair respecting the ASC proceedings, now remote in time and employment from A's current circumstance. Zang is a lawyer and well understands the obligations of confidentiality and privilege that apply.

20. Ms. Ryan had never met A. Both practice at a large firm in different cities. The suggestion that one would actively seek out the other respecting this matter was not supported by the evidence. That is not a realistic risk. The materials for this hearing were screened. The screen prevented any lawyer at Ms. Ryan's firm, including A, from gaining access to them. The LSA's disciplinary process, while relying in part on evidence in the ASC proceedings, has no connection to A's legal work for the ASC.

21. A's past role in the ASC proceedings involving Zang was unclear, other than that A was counsel at some point for the ASC several years before the Settlement Agreement. A was obliged to maintain privilege respecting the ASC litigation, regardless of the extent of A's knowledge.

22. There was also a reference to a discussion overheard in a restaurant first raised well into the consideration of the bias question at hearing; however, the evidence put forward by Zang was not sufficient to allow us to conclude that the discussion involved A, nor did the evidence suggest this would have any material bearing on these proceedings.

23. A has no authority over Ms. Ryan, who is a partner in the firm. Neither Ms. Ryan, A nor Ms. Ryan's firm have anything to gain from the outcome of these proceedings. Ms. Ryan is entirely disinterested in hearing the matter. It is not necessary for Ms. Ryan to recuse herself from consideration of this application or from this hearing. Doing so in these circumstances would unnecessarily increase the burden on other LSA adjudicators, cause delay, or both.

24. We find that an outsider reasonably informed, particularly one familiar with LSA processes, would conclude there is no reasonable apprehension of bias. There is no risk that the Chair or the Committee will decide this matter unfairly. The application to disqualify the Chair was therefore dismissed and the public hearing proceeded.

Jurisdiction and Citation

25. Jurisdiction was admitted.

26. Zang faced a single citation that he acted in his business dealings with KCL in a manner that brought the legal profession into disrepute and that such conduct is deserving of sanction.

Evidence

27. There were two witnesses in the hearing. The LSA called one witness, LSA investigator F. Zang testified on his own behalf.

28. Before turning to the merits of the hearing evidence respecting the citation, the question of admissibility of evidence will first be addressed.

Zang's Submissions on Disputed Evidence

29. Zang made objections to some of the evidence tendered by the LSA at the outset of the LSA's case and throughout it. Zang objected to the following evidence:

    1) The LSA investigation report prepared by F, which relied heavily on the ASC investigation and proceedings.
    2) The Settlement Agreement between Zang and the ASC.
    3) The 2021 ASC decision respecting KCL and others involved including P.

30. Zang contended the investigation report contained both hearsay evidence and opinion and should not be evidence in these proceedings. This was readily admitted by F on cross-examination and by LSA counsel. Although F did additional work and interviewed Zang, much of his investigation consisted of the review and compilation of the ASC investigation and hearing evidence. Zang submitted the LSA had to prove its case without reliance on the Settlement Agreement and the ASC evidence.

31. Zang said the terms of the Settlement Agreement were restricted to the ASC proceedings. These terms included a preamble in the Settlement Agreement that it was "solely for securities regulatory purposes in Alberta and elsewhere and as the basis for settlement…and for no other purpose."

32. Zang also relied on section 6 of the *Alberta Evidence Act,* RSA 2000, c.A-18 and noted parallel language in section 13 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act* 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982 c 11. The *Securities Act* also contains restrictions on the use of evidence arising out of those proceedings.

33. Zang further stated that settlements are to be encouraged and should not be admissible in other related proceedings. He said materials provided to the LSA were provided under compulsion as he could not avoid the obligations of the *Act* and the Code of Conduct. He further contended that, due to health reasons, he had no choice but to accept the Settlement Agreement at the time.

34. In support of his position, he cited *Imperial Oil v Alberta (Information and Privacy Commissioner)*, 2014 ABCA 231. This matter dealt with the question of whether the City of Calgary could access the contents of a confidential mediation between two other parties that resulted in a without prejudice settlement. The language in the mediation agreement in that case included the following:

> All communications made at the Mediation… shall be strictly confidential and must be kept forevermore strictly confidential… Further and without limiting the

> foregoing, all those communications shall be on a without prejudice basis. The Mediation-related information and communication exchanged before, during and after this Mediation cannot be referred to or released in any other context… [paragraph 10]

LSA Submissions on Disputed Evidence

35. LSA counsel submitted that the evidence was admissible. The *Act* allows hearsay evidence; the Committee has the discretion to admit evidence as it sees fit. The ordinary rules of evidence do not apply in these proceedings: section 68 *Act*.

36. Respecting the *Evidence Act and Charter,* LSA counsel cited *Toronto (City)* v *C.U.P.E. Local 769* 2003 SCC 63 and *Toy v Edmonton Police Service,* 2018 ABCA 37.

37. LSA counsel also relied on a 2010 Discipline Tribunal decision involving accountant, Gordon Ironside (*Ironside).* Ironside had previously been found guilty of misconduct under the *Alberta Securities Act.* The tribunal, after considering the decision in *C.U.P.E,* determined that the findings before the ASC should be *prima facie* evidence in the proceedings under the *Regulated Accounting Profession Act* RSA 2000 c C-12.

38. LSA counsel submitted it is not reasonable to expect the LSA to conduct a new investigation completely independently of the ASC investigation. LSA counsel submitted that it is entitled to rely on the evidence and outcomes from the ASC proceedings, particularly given that the resolution of those proceedings was by consent and in public. In the Settlement Agreement, Zang voluntarily admitted that his conduct breached the *Securities Act*. LSA counsel stated it would be problematic if significant and admitted misconduct by its members was shielded by provisions of the *Evidence Act*. LSA counsel said the provisions of the *Act* were paramount to the other legislation, including the *Evidence Act*. Through the *Act*, a hearing committee has broad discretion to admit evidence as sees fit. This broad discretion is consistent, LSA counsel said, with the public interest.

39. LSA counsel submitted that Zang is a compellable witness in these proceedings. He has no right against self-incrimination. He could not stay silent. He had a duty, as a member of the LSA, to report both the fact of the ASC investigation and the outcomes. Therefore, even if the Settlement Agreement restricts its purpose, it is available to the LSA in these proceedings. Zang voluntarily authorized the LSA to obtain the evidence in the ASC proceedings and reported the Settlement Agreement. Zang had legal representation in the ASC proceedings.

40. The Committee allowed the evidence and advised reasons would be provided in this decision. The LSA and Zang subsequently entered the Agreed Facts which largely paralleled the Settlement Agreement with some exceptions. The Agreed Facts made most of Zang's objections to this evidence moot. However, because the Committee

committed to the provision of reasons on the admission of the evidence, and because some objections remained, we do so here.

Analysis Respecting Admissibility of Disputed Evidence

41. The disputed evidence is admissible.

42. The Committee has broad discretion to accept evidence in any manner it sees fit; the ordinary rules of evidence do not apply: *Act* s. 68.

43. Zang and LSA counsel agreed that their subsequent agreement on the Agreed Facts resolved the *Charter, Evidence Act*, and *Securities Act* question. We note, however, that in Alberta, this question was resolved in favor of the admission of the evidence in *McDonald v. Law Society* (Alberta), 1993 CanLII 7249. Justice Lefsrud applied *R. v. Wigglesworth*, 1987 CanLII 41 (SCC) and *Pearlman v. Law Society* (Manitoba) (1991), 1991 CanLII 26 (SCC). The evidence is admissible.

44. The question of whether a litigant can dispute findings made against them in prior proceedings was considered in *C.U.P.E*. A city employee pleaded guilty to criminal charges and was convicted of sexual assault. His employer, the City of Toronto, relied on the criminal conviction to terminate his employment. The employee then grieved the dismissal and argued it should be able to relitigate the criminal conviction in labour arbitration. The arbitrator allowed the employee to relitigate the assault and ruled the employee had rebutted the presumption of the conviction. The Supreme Court of Canada found this approach was an abuse of process. Arbour, SCJ, reviewed the principles of abuse of process, *res judicata*, and issue estoppel. Justice Arbour held that it would be an abuse of process for the employee to relitigate the conviction despite the lack of mutuality of parties in the subsequent proceedings and even though the prior proceedings ended with a guilty plea instead of a finding of guilt after trial.

45. Justice Arbour considered the balance necessary in the face of competing interests and the principles at play including “finality, fairness, efficiency and authority of judicial decisions.” Despite finding that the conviction could not be relitigated, she stated that there are some exceptions where relitigation would “enhance the credibility and the effectiveness of the adjudicative process as a whole.” Examples of such circumstances include the following:

> “(1) when the first proceeding is tainted by fraud or dishonesty.
> (2) when fresh, new evidence, previously unavailable, conclusively impeaches the original results; or
> (3) when fairness dictates that the original result should not be binding in the new context.” [paragraphs15 and 52]

46. For the reasons *infra*, we find none of these exceptions apply here.

47. In *Ironside*, the accountant had heavily contested the ASC allegations of misconduct through to the Court of Appeal. Like Zang, he took the ASC proceedings very seriously. In his professional disciplinary proceeding, he sought to introduce new evidence to impeach the findings made by the ASC. Such evidence was available to him in earlier proceedings. Ironside was precluded from relitigating the ASC findings. The ASC findings were accepted as *prima facie* evidence in Ironside's professional disciplinary hearing.

48. Notwithstanding the acceptance of the ASC findings in evidence, the *Ironside* tribunal maintained its obligation to decide the ultimate issue under its own processes. The tribunal found the following:

> "The findings in the ASC decisions are simply evidence before the tribunal. The tribunal, however, must consider those findings and determine whether the conduct of Mr. Ironside as found by the ASC amounts to unprofessional conduct. In other words, the decision on whether such conduct is unprofessional under *RAPA* or the Code of Professional Conduct is one to be made solely by this tribunal." [paragraph 61]

49. The Committee also considered *Law Society of Saskatchewan v Phillips*, 2021 SKCA 1. The Saskatchewan Court of Appeal in *Phillips* canvassed the authorities and considered the approach of the underlying Law Society hearing committee. In small claims court, a lawyer's fees were reduced. In subsequent professional discipline proceedings, the hearing committee considered that outcome as *prima facie* proof that the lawyer's fee was unreasonable. In the circumstances, the committee's acceptance of the civil case outcome as *proof* of the misconduct had the effect of reversing the ultimate burden to wrongly place it on Phillips. This was a reversible error, and the finding of misconduct was set aside.

50. Applying the authorities above to LSA proceedings, these relevant principles emerge:

- A hearing committee may receive evidence in any manner it considers proper and is not bound by the ordinary rules of evidence or admissibility [s. 68(1) *Act*].
- Where a lawyer has previously actively participated as a party in other proceedings related to the same events giving rise to the citation, a hearing committee may admit the findings from those proceedings as *prima facie* evidence in support of the citation before it. [*Phillips*, paragraph 77]
- The tribunal should be cautious to not treat such prior findings as *prima facie* proof of the citation; rather, the evidence is admitted as *prima facie* evidence in support of the citation of conduct deserving of sanction [*Phillips*, paragraph 79]
- Each case must turn on its facts; *C.U.P.E.* cannot invariably be applied across all prior litigation outcomes without considering the circumstances of the matter at hand and the prior proceedings [*Phillips*, paragraphs 83 and 84]
- The ability of the hearing committee to rely on the evidence in support of a citation is contingent upon the lawyer being provided a fair opportunity to introduce evidence to dispute the findings [Phillips, paragraph 75 citing *Rosenbaum v. Law*

Society of Manitoba, 150 DLR (3rd) 352 (Man QB), aff'd 3 DLR (4th) 768 (Man CA), leave to SCC refused, citing a 1943 House of Lords authority]

- Whether the dispute over the prior proceedings amounts to re-litigation such as to be an abuse of process depends on the reason for challenging the outcome in the other proceedings [*C.U.P.E.*, generally and specifically paragraphs 15 and 52]
- Once the prior decision is admitted into evidence, the hearing committee must accord it the evidentiary weight that is appropriate for the circumstances. The weight is to be determined by the hearing committee. Among the considerations for weight are the following considered in *British Columbia (Attorney General) v Malik,* 2011 SCC 18, [2011] 1 SCR 657:
    - Similarity of issues
    - Identity of the parties
    - Similarity of other proceedings, noting the burden of proof in other proceedings and their purpose
    - Varying circumstances of the case involved [*Phillips* paras 79,80]
- The burden to prove the citation is on the balance of probabilities and remains on the LSA [MacKenzie, *Lawyers & Ethics: Professional Responsibility and Discipline* as cited at paragraph 74 in *Phillips.* See also *F.H. v MacDougall* 2008 SCC 53, paragraph 49 per Rothstein, SCJ: "There is only one standard of proof in civil cases and that is proof on a balance of probabilities."
- The lawyer may have an evidentiary burden, depending on the circumstances, to address the prior findings, but that does not displace the primary burden on the LSA [MacKenzie, *Lawyers & Ethics: Professional Responsibility and Discipline* as cited at paragraph 74 in *Phillips]*
- The *Act* discipline process for lawyers is designed to maintain professional integrity, discipline, and standards. It does not have true penal consequences. Therefore, neither the *Charter* s. 13 nor the *Evidence Act* s. *6* (nor, in this case, the *Securities Act*) will prevent the admission of the evidence from other proceedings. [*McDonald*, applying *Wigglesworth* and *Pearlman*]

51. Zang is free to provide evidence that the prior proceedings were somehow tainted, to tender evidence previously unavailable, or to show why it would be unfair to rely on the Settlement Agreement and evidence originating from the ASC proceedings. The Settlement Agreement is otherwise *prima facie* evidence in these proceedings. The evidence tendered from the ASC proceedings through the LSA investigator F is likewise evidence in these proceedings. Notwithstanding the admission of the Settlement Agreement as evidence, the Committee remains obligated to consider all the evidence in determining whether Zang's conduct is conduct deserving of sanction under the *Act*. Zang tendered evidence on the reasons why we should not rely on the ASC evidence and outcome. Although it was proper to receive that evidence in the circumstances, for the reasons below, the Settlement Agreement and ASC evidence remain *prima facie* evidence in these proceedings.

52. We now turn to the question of whether any exception applies to prevent or otherwise limit the admissions made in the Settlement Agreement and the other disputed evidence.

No unfairness in relying on Settlement Agreement and ASC Evidence

53. In the Agreed Facts, Zang made most of the admissions he made in the Settlement Agreement with the following notable exceptions:

    1) Zang did not admit paragraph 35 of the Settlement Agreement. In other words, he does not admit his conduct amounted to a breach of the *Securities Act* and objects to the Committee's reliance on this admission before the ASC.
    2) Zang did not admit all of the language at paragraph 19 of the Settlement Agreement. In particular, he does not agree that he financed KCL's "promotional campaign" through paid "promoters." Instead, Zang admitted that he financed "investor relations".
    3) Zang modified his admissions to note that he did not, until April 22, 2014, know of P's trades through Alberta 164 made after the CTO.

54. Zang also continued to argue that hearsay and opinion evidence outside the Agreed Facts should not be admitted. This also applied to the 2021 ASC decision respecting KCL which was tendered for a limited purpose by the LSA.

55. Zang argued that a major health issue in 2015 and its ongoing effects, combined with his mental health, were the reasons that he accepted the Settlement Agreement instead of contesting the *Securities Act* charges. He says he could have successfully defended himself but for those ailments. He testified that he had no choice but to accept the settlement. For this reason, Zang contested portions of the Settlement Agreement that were not contained in the Agreed Facts. Alternatively, he stated they should be accorded little or no weight.

56. Applying the principles above, and *Phillips* and *C.U.P.E* in particular, we must consider Zang's explanation, the circumstances of the Settlement Agreement, and whether any of the exceptions apply to prevent the Settlement Agreement, and in particular the admissions as to the breaches of the *Securities Act,* from becoming *prima facie* evidence in these proceedings.

57. We find there was no taint or dishonesty from others in the ASC proceedings. We accept the ASC proceedings were very stressful for Zang. This would be particularly the case for a securities lawyer. However, nothing about that process was unfair to Zang. Likewise, there was no fresh evidence tendered in these proceedings that was not previously available to Zang. Notwithstanding the fairness in the ASC proceedings, we should consider Zang's health issues at the time of the Settlement Agreement.

58. Zang had a major health issue in 2015. It was very serious. He later had surgery. The LSA acknowledges the severity of that event in Zang's life. Zang's life is still affected. However, by Zang's own admission, he litigated not less than 15 applications and appeals in the ASC

proceedings. He was ready and able to litigate with the ASC then, notwithstanding his health challenges. He was ably represented by senior counsel in many of these proceedings and at the ASC hearing, which was resolved, after the hearing began, through the Settlement Agreement. Zang volunteered that his counsel strongly urged him to take the Settlement Agreement. The Settlement Agreement terms provide that it was made voluntarily with Zang having the benefit of legal advice.

59. Although Zang's health issues were serious, he conducted extensive interlocutory litigation with the ASC. Significant time had passed between the 2015 health issue and the 2019 Settlement Agreement. The underlying supporting evidence referenced in the Settlement Agreement was credible, clear, cogent, and voluntarily provided. Zang was represented by experienced counsel in executing the Settlement Agreement.

60. We find it would be unfair to expect the LSA to relitigate the ASC litigation. Indeed, if a lawyer could shield themselves from the LSA tendering evidence of a parallel regulatory or other prosecution in a case with these facts, the public interest would not be served. A lawyer could be disciplined for very serious misconduct by another body, but avoid full evidence being available in his own regulatory proceedings. The potential for abuse of process would be significant. For example, if a lawyer pleaded guilty to impaired driving causing death, it would be absurd to allow the lawyer to suggest that the breathalyser somehow malfunctioned at his professional conduct hearing. Even odder would be an expectation that the LSA must prove the breathalyzer was functioning through expert evidence at the LSA hearing to ground a finding of conduct deserving of sanction arising out of the same events which resulted in a guilty plea. This does not mean that the LSA does not continue to carry the ultimate burden of proof against Zang, but rather that there must be, as Justice Arbour noted, "finality, fairness, efficiency and authority" in accepting the ASC outcome as *prima facie* evidence together with the other tendered evidence arising from or through the ASC proceedings.

61. The Committee also takes notice of the expertise of the ASC. Like the LSA, the ASC is an independent and self-governing body, regulating in the public interest. Its status, powers, and processes are derived from the *Securities Act.* The ASC has both the necessary expertise and authority to investigate and discipline those alleged to be in breach of the *Securities Act*. Deference is owed to this regulatory body similar to the deference owed to the LSA in its assessment of conduct of its members: *Alberta (Securities Commission) v. Workum* 2010 ABCA 405 at paragraphs 26 and 27. We ought not easily displace the admissions before the ASC, particularly where they were voluntarily made with the full benefit of counsel.

62. Although settlements are to be encouraged, the Settlement Agreement is not like the mediation agreement in the *Imperial Oil* case. The necessary language for confidentiality and privilege is absent. The fact that Zang is a compellable witness, without the right against self-incrimination, bolsters this finding.

63. Accordingly, we accept as evidence in these proceedings Zang's admissions that he breached the *Securities Act* as set out at paragraph 35 in the Settlement Agreement. As will

be reviewed below, given the other underlying evidence, including the documentary evidence, the interviews, and Zang's evidence at this hearing, we find that the factual elements of the *Securities Act* violations are established. We likewise accept the ASC transcripts and, for the purpose tendered, the related ASC 2021 decision respecting KCL. And we accept as evidence herein the contents of the LSA's investigator's report notwithstanding that much of the investigator's evidence was not obtained firsthand.

Evidence and Findings Respecting the Citation

64. We now turn to the evidence on the merits of the citation alleged.

65. Zang's ultimate motivation for his conduct in this matter is relevant. Through Zang's company, V, Zang held an interest in a natural gas property (LC) which was a major liability in his portfolio. LC had racked up losses for years, costing V over one million dollars. Zang wanted to rid himself of this "lousy" asset. Zang would have been content to sell the asset for "a buck," but, as LC had abandonment and liability issues, Zang knew that the Alberta Energy Regulator would require one million dollars or more on reserve or deposit prior to approving any transfer of the LC asset by V. Accordingly, Zang was looking for a vehicle to raise funds quickly to meet the regulator's likely reserve requirements. This motivation was described by Zang in the ASC investigation as the "golden thread" operating throughout his KCL dealings.

66. Zang was introduced via email to individuals at KCL. KCL was a company incorporated in Belize under a different name in 2011. It changed its name to KCL on March 28, 2013. It ostensibly held oil interests in Cabinda, a province in Angola. However, the assets were contingent in value because they first required Cabinda to gain self-determination or independence from Angola. KCL was looking for investors. Both KCL and Zang had a common objective to gain a public market for KCL shares. Zang never looked at KCL's financial statements. They were not important to him; he wanted his shares to increase in value quickly so that he could rid himself of LC by raising enough money to meet the reserve requirement.

67. Zang never personally met P, a lawyer resident in Ontario. P was the control person behind KCL as well as its counsel and trustee.

68. Zang and P, on behalf of KCL, entered negotiations that might prove mutually beneficial for both. Negotiations were not fruitful at first. In June 2013, Zang acquired shares in KCL. Emails around this time, tendered in evidence, show this to be the first transaction between Zang and KCL. We find that June 2013 was the first time the relationship went past the point of negotiation. Everything before that was negotiation. The evidence does not support that Zang or any of his companies acted in a consulting capacity for KCL at or before this time.

69. The shares of KCL subsequently underwent a 100 for 1 forward stock split on March 3, 2014. This increased Zang's share holding to 30 million shares. After the split, total

issued shares in KCL were 500 million.

70. Zang instructed his broker to do a test trade on Zang's personal trading account. By March 25, 2014, Zang told P that he successfully traded 300,000 shares.

71. Zang also owned a company, Alberta 164, which had a trading account through an Alberta broker. After the successful test trade, Zang granted P full control and authority over both his and Alberta 164's trading account. Between March 25 and 27, 2014, KCL deposited over 200 million shares into Alberta 164's trading account. This was more than 40% of KCL's total issued shares. Zang did not beneficially own these shares. P immediately began trading KCL shares through the Alberta 164 account. Around this time, Zang also loaned KCL money to start a promotional campaign to increase value of the KCL stock.

72. On April 3, 2014, the ASC ordered the KCL shares to cease trading (the CTO). KCL had failed to meet filing requirements; it had failed to file its annual information form for the year ended December 31, 2013. Despite the CTO issued on April 3, 2014, P directed a further trade the next day, April 4. Zang was not aware of the CTO until April 5, 2014. He did not become aware of P's post CTO-trade until April 22, 2014. Zang said that when he found this out, it was a "trigger." He thought to himself there was something "nefarious" going on. Notwithstanding these serious concerns, Zang did not curtail P's access to Zang's trading accounts at that time. Rather, Zang continued to provide P with access to his Canadian trading accounts and worked with P to open American trading accounts to trade KCL shares in the United States.

73. The CTO shut down KCL's ability to trade KCL shares through Alberta 164 and Zang's accounts. In response to the CTO, P and Zang decided to "pivot" in their strategy. The evidence shows that Zang actively participated in this new strategy. In the face of the CTO, P, and Zang, at P's direction, took multiple steps to enable KCL to trade on a different exchange in the United States. To that end, on April 17, 2014, Zang incorporated a company in Delaware with a name identical to Alberta 164 (Delaware 164). Zang authorized the transfer of all shares in Alberta 164 to Delaware 164. Again, Zang gave P trading authority respecting Delaware 164. The plan was to trade KCL shares on an over-the-counter exchange (OTC) in the United States. Zang said the benefit of an OTC exchange was that trading could occur without financial statements.

74. We find that Zang understood and believed, in April 2014 and through the remainder of his dealings with KCL in 2014, that a number of criteria had to be met to gain access to the OTC. They included the following necessary prerequisites:

- A U.S. company owning the KCL shares with beneficial ownership in excess of a year
- A U.S. trading account on COR, a brokerage in the U.S.
- A U.S. legal opinion confirming, among other things, 1 and 2 above

75. On May 1, 2014, Zang signed the SCA prepared by P. The SCA was dated March 27, 2013. The Committee finds the SCA to be false and misleading in a number of material respects. In particular, we find that it was made up to procure the legal opinion to gain OTC access for Delaware 164 in the face of the CTO.

76. A number of the terms of the SCA are inconsistent with other evidence, including its date of March 27, 2013:

- The SCA was not prepared or signed until May 2014
- KCL was still operating under another name as at March 27, 2013
- Delaware 164 did not exist on March 27, 2013. Its existence was not even contemplated at that time
- There is no supporting documentary or credible evidence that Zang (or his corporate entities) were to be paid 495,000 shares for consulting work prior to the creation of the SCA signed May 1, 2014

77. Two days after Zang signed the SCA, on May 3, 2014, as part of the prerequisite of obtaining a COR trading account, Zang completed a "heightened risk security policy questionnaire" for Delaware 164. This form was completed in Zang's handwriting and signed by him. This questionnaire had similar problematic responses on its face including the following:

- The questionnaire was signed May 3, 2014, respecting Delaware 164, but stated the acquisition of shares was "agreed to March 27, 2013." Delaware 164 did not exist on March 27, 2013
- Zang stated Delaware 164 owned 79 million KCL shares; KCL didn't have 79 million shares on March 27, 2013. The stock split did not happen until March 3, 2014
- Zang said Delaware 164 beneficially owned 79 million shares, but P controlled 50 million of the 79 million shares

78. The representations in the SCA allowed the U.S. counsel to provide a legal opinion that the Delaware 164 shares had been beneficially owned by Delaware 164 for more than a year. Although P directed the opinion of U.S. counsel, Zang paid for it. The statement in the opinion is false.

79. In interviews with the ASC and LSA, Zang gave different accounts as to the reasons for the problematic dating and contents of the SCA and the questionnaire. Zang's evidence on this at the hearing was internally inconsistent. It should be noted that it was also internally inconsistent in prior LSA and ASC interviews.

80. Zang said that he was unaware the SCA, signed by him, was dated March 27, 2013. He said he didn't know where the date came from. In some interviews, Zang said this date was wrong and the question of compensation for Zang's extra work only came up after

the CTO. In others, Zang asserted that the share numbers were wrong. Before the Committee, Zang said the shares were “seasoned” because others had owned KCL shares before he and his companies did. He did not use this language in proceedings previously. He also said at the hearing that the agreement should have been dated in 2012 because that is the date Zang and P planned for shares to be issued and for Zang to consult for KCL. In a prior interview in the ASC proceedings, when Zang was asked if he provided consulting services to KCL, he said, “No, not really.” Although Zang tendered evidence of communications in 2012, the evidence showed these communications to be early negotiations. We find no agreement was made in 2012.

81. Zang’s evidence on this point has been problematic throughout both the ASC and LSA investigations. The fact that the legal opinion was dated April 30, 2014, but the SCA was signed May 1 (and the questionnaire signed May 3) only compounds the challenges surrounding this evidence. Considering the evidence, we find that the SCA was a fake agreement made to gain access to the OTC exchange. Zang signed it at P’s direction because Zang understood at that time that Delaware 164 needed a one-year history of share ownership to support the required legal opinion to gain access to the U.S. OTC market. Zang did not purchase shares until June 2013 and Delaware 164 had just been incorporated in April 2014. Under P’s direction, and with the “golden thread” hope of speedy and sizeable returns, Zang acquiesced in allowing P to make false assertions respecting a consulting arrangement and the length of shareholdings by Delaware 164 as at March 2013. Zang knew these statements were not true.

82. In June 2014, Zang again loaned KCL funds for the purpose of promoting the KCL stock. Zang stressed in his evidence before the Committee that there was a difference between funding a “promotional campaign, “investor relations,” a “market maker,” or a “touts” campaign. Regardless of the label, we find that Zang understood the purpose of the loan was to support KCL in self-promotion to artificially inflate the price for the shares and to increase the volume of trades despite the CTO issued April 3, 2014 by the ASC.

83. Ultimately, the scheme only temporarily inflated the stock value. Zang recovered his loans, but ultimately lost the value of his investment in KCL. Through the summer, P traded all of the shares in Zang’s Delaware 164 account. Zang eventually determined that this venture was no longer something he wanted any part of, and, in his words, he “voided” all agreements. In so doing, he lost his initial $30,000.00 investment and could no longer rely on this strategy to dispose of LC.

84. Zang was summoned for interview by the ASC in October 2014 in respect of his dealings with KCL. Zang knew that if he received a second interview request, it would mean the ASC was looking at him not only as a witness, but also as a subject of investigation. When Zang was served with a notice for a second interview, it was very stressful for him. It was less than two weeks later that Zang endured the major and prolonged health issue. Zang tendered medical evidence that left little doubt he has been through a significant physical and emotional ordeal in the immediate aftermath of his involvement with KCL.

85. The ASC commenced proceedings against many of the key actors in the KCL dealings, including the strategy to avoid the CTO and to artificially inflate the market for KCL shares. Zang was a respondent in the ASC proceedings. Zang resolved his ASC charges by way of the Settlement Agreement. Others also entered into their own settlement agreements. Still others went to hearing. Eventually, all were found guilty, to one degree or another, of *Securities Act* violations. The decision respecting the others was admitted as evidence in these proceedings as Exhibit 17. The LSA tendered this decision not as evidence against Zang *per se*, but to show the outcomes for others involved. Notably, P received the most serious penalties of the group. P's sanctions included a complete market ban, a disgorgement order for $117,400.00, a $450,000.00 penalty, and $120,000.00 in costs.

86. In his Settlement Agreement at paragraph 35, Zang admitted to breaching the *Securities Act*. In particular, Zang admitted acting against the CTO in furtherance of the trade of the KCL shares in the United States and by funding KCL's promotional campaign when he ought to have known it may contribute to an artificially inflated price for the shares. He also admitted breaching the *Securities Act* by generally acting against the public interest in failing to identify suspicious activities in the operation, management, and promotion of KCL. These admissions are a matter of public record despite the fact that the Settlement Agreement provides that the admissions are made solely for those proceedings. Zang agreed to sanctions. In the Settlement Agreement, Zang paid $70,000.00 and had multiple restrictions on his ability to trade in securities. In exchange for the Settlement Agreement, the charges against Zang were withdrawn. Both the fact of the Settlement Agreement, and its contents and sanctions, are extremely serious for any lawyer, let alone a securities lawyer.

87. While we accept this evidence on a *prima facie* basis, the statute that governs this hearing is the *Act*.

88. In this regard, we must consider the requirements of the Code of Conduct. Obviously, acting in accordance with the law is expected of all lawyers. This includes lawyers conducting their private affairs under the *Securities Act.* LSA counsel submitted that the general provisions of the Code respecting integrity were breached. We agree. Zang was bound to conduct himself with integrity in his dealings with KCL and P. He failed.

89. Respecting the dealings with P and KCL, the Code of Conduct provides the following:

> Fraud by Client or Others
> 3.2-13 A lawyer must never:
> (a) assist in or encourage any fraud, crime, or illegal conduct,
> (b) do or omit to do anything that assists in or encourages any fraud, crime, or illegal conduct by a client or others, or
> (c) instruct a client or others on how to violate the law and avoid punishment.

90. Zang assisted others in illegal conduct. Not only did he fail to prevent it, but he also actively participated in it, strategized on it, and facilitated it. He abdicated his authority over his own trading account in favour of an insider of KCL whom he knew was engaging in a promotional campaign to artificially inflate the value of the KCL shares. His motive in doing so was self-interest. He wanted to purge his company, V, of the LC asset. We do not accept Zang's submission that he was free to engage in this conduct to avoid the consequences of the CTO. Zang is an Alberta lawyer and businessman and is bound by the CTO. He ought not attempt to do indirectly what he was expressly prohibited from doing directly in his own jurisdiction. In this regard, we defer to the ASC's expertise and the Settlement Agreement itself. Even if Zang were able to move the shares to a U.S. company to gain access to an OTC exchange (which would be contrary to the ASC admissions and findings in related proceedings), the way Zang gained that access was improper.

91. We do not accept Zang's suggestion that he and KCL did not need a legal opinion to gain access to a U.S. COR account and the OTC exchange. Zang himself had repeatedly insisted to both the Securities Commission and the LSA that obtaining the opinion was a regulatory requirement.

92. We likewise do not accept that there was any SCA in March 2013. Both the SCA and the questionnaire contained multiple false statements and were inconsistent on their face. To quote Zang, "it's a mess." Zang's credibility was challenged in cross-examination on this point at the hearing. Zang previously told the ASC that he did not provide consulting services which was inconsistent with the heart of the SCA. Most troubling, Zang said he didn't know P had dated the SCA March 27, 2013 until the ASC proceedings started, but Zang himself filled out the questionnaire. The date, "March 27, 2013" appears on the questionnaire in Zang' own handwriting. We find that the SCA and questionnaire were prepared sometime between late April 2014 and May 1, 2014 to falsely assert to others, including U.S. Counsel, that the shares had been beneficially owned by Delaware 164 for over a year. This was part of the strategy pivot arising out of the April 2014 CTO. Zang, P and KCL understood that was a pre-condition to the COR account and the OTC exchange; so, they set about to paper same without regard to whether the contents of the SCA and the questionnaire were true.

93. We find that Zang funded a promotional campaign. Whether this was labelled as "investor relations" is not as important as what Zang did and what he knew. We find that Zang knew that there was no corporate basis to market a significantly inflated value for KCL shares. Zang never looked at the financial statements for KCL. They were of no interest to him.

94. We find that Zang's objective was to help P inflate the value of KCL as quickly as possible so that the share value would quickly and exponentially rise, enabling Zang to dispose of the LC asset, one that had been costly for Zang's company already. One of the promotional releases marketed the intended acquisition of LC as a positive development for KCL. Zang knew better. We find that Zang's intent was to help P create

an environment for the artificial inflation of the share price without any regard to the underlying value of the corporate assets.

95. Although P showed himself to be a "scoundrel" as Zang suggested at hearing, Zang willingly aided P in P's illegal conduct in the hopes of creating fast cash to rid himself of the LC asset. The evidence shows the conduct was intentional; however, wherever Zang was unaware, as he was for example on the financial statements, we find that he was wilfully blind to P's and KCL's illegal and or fraudulent conduct.

96. Zang claimed he was "just an investor." The evidence does not support his claim.

97. In helping P and KCL avoid the consequences of the CTO, in passing off a fake SCA and false and misleading questionnaire to gain access to a U.S. COR account and legal opinion to enable OTC trading in the United States, in funding a promotional campaign to artificially inflate the price of KCL, in allowing P unfettered access to Zang's personal and corporate trading accounts, both before and after Zang realized that P was engaged in "nefarious" conduct, Zang's conduct was contrary to the Code of Conduct. Collectively, this conduct brought the legal profession into disrepute.

98. The fact that KCL and P were not clients does not assist Zang. The Code prohibits this kind of conduct whether the party the lawyer is assisting is a client or not.

99. Why such a high standard for lawyers' conduct outside the practice of law? Lawyers hold a privileged place in our society. Lawyers must be, and be seen to be, trustworthy, not only in the course of professional practice, but in their day to day lives. A securities lawyer that engages in this kind of conduct involving his personally held securities and those of others cannot insulate himself from consequence merely because the conduct was outside his legal practice. Although Zang was not acting as a lawyer in these dealings, his conduct attracts sanction under the *Act.*

100. We find that the LSA has established the single citation on a balance of probabilities. Zang acted in his business dealings with KCL in a manner that brought the legal profession into disrepute. This conduct is deserving of sanction.

Concluding Matters and Next Steps

101. The next step in these proceedings is the sanction phase. The LSA and Zang are directed to schedule same for the Hearing Committee.

102. The exhibits, other hearing materials, and this report will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that the report and exhibits will be redacted to protect the personal and confidential information of third parties, solicitor-client privilege, and other sensitive information,

including information related to Zang's health in accordance with Rule 98.3 and 141.2(12).

Dated December 18, 2023

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Kathleen Ryan, KC

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Sharilyn Nagina, KC

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Ike Zacharopoulos

Appendix A

IN THE MATTER OF DIVISION 1 OF PART 3 OF THE
LEGAL PROFESSION ACT, RSA 2000, c L-8

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
JOHN C. ZANG
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE HE20220224

AGREED STATEMENT OF FACTS

INTRODUCTION

1. This hearing arises out of information related to ASC proceedings and comprises one citation.

MEMBER BACKGROUND

2. On April 1, 1992, John Zang ("Zang") was admitted as a member of the Law Society of Alberta (the "**LSA**").

CITATIONS

3. Zang faces the following citation arising out of complaint CO2017[…]:

> It is alleged that John C. Zang acted in his business dealings with K.C. Ltd. in a manner that brought the legal profession into disrepute and that such conduct is deserving of sanction.

AGREED FACTS

4. [KCL] was incorporated under the laws of Belize on May 25, 2011. At all material times, it maintained an office address and management presence in Calgary, Alberta. KCL's stated business was investment in and development of future contingent oil and gas interests in regions of Africa seeking or purporting to seek self-determination.

5. [A.P.] is an individual whose last known address was in Oakville, Ontario. At all material times, A.P. held himself out as a lawyer licensed to practice law in the USA and as an attorney for KCL.

6. [J.L.] is a resident of Hilton Head, South California. At all material times, J.L. held himself out as a lawyer licensed to practice law in the USA, and as an attorney for KCL.

7. Zang is a resident of Calgary, Alberta. At all materials times, Zang was a lawyer licensed to practice in Alberta. LSA's investigation did not uncover any evidence that Zang provided legal services in relation to this matter.

8. All of Zang's business dealings with respect to KCL were with A.P. and J.L.

KCL Shareholdings

9. Zang negotiated a purchase of 300,000 KCL shares in June 2013 through correspondence with A.P. and J.L. without meeting either of them in person.

10. These KCL shares were deposited into Zang's trading account at [R.G.M.P.] Limited ("**RGMP**").

11. On or about March 3, 2014, KCL underwent a 100-for-1 forward split of its issued and outstanding shares, which had the effect of increasing the number of KCL's issued and outstanding shares to a total of 500 million.

12. The number of shares in Zang's trading account at RGMP was accordingly increased by 100 times to a total of 30 million.

13. On March 26, 2014, Zang granted A.P. a trading authorization over the RGMP trading account of Zang's wholly owned company, 164[…] Alberta Ltd. ("**164 Alberta**").

14. On approximately March 27, 214, at the direction of A.P., over 200 million shares in KCL were deposited into 164 Alberta's account at RGMP. Neither Zang nor 164 Alberta beneficially owned these shares.

Loans to KCL

15. On A.P.'s advice that KCL required money to pay investor relations, Zang loaned $22,136 USD to KCL (the "**March Loan**").

16. Between March 27 and April 4, 2014, over 1.5 million KCL shares in 164 Alberta's account were traded on A.P.'s direction. Zang was repaid the March Loan from the trade proceeds.

17. Zang again loaned funds to KCL on June 10, 2014, by wiring $25,000 USD to A.P. (the "**June Loan**").

Cease Trade Order

18. On April 3, 2014, the Alberta Securities Commission (the "**Commission**") issued a cease trade order for KCL's shares ("**CTO**") pursuant to section 33.1 of the Alberta *Securities Act* (the failure to comply with filing requirements in Alberta), directing that trading or

purchasing cease in respect of any security of KCL until the order is revoked or varied. The CTO was amended in February 2015 to reflect KCL's name change to [NIT] and remains in effect.

19. Zang admits that he was informed of the CTO by A.P. on April 5, 2014.

20. Of the 1.5 million KCL shares traded in 164 Alberta's account on A.P.'s direction, over 100,000 were traded after the CTO was issued. Zang had no knowledge of these trades until after April 22, 2014.

21. On April 17, 2014, Zang incorporated a Delaware corporation named 164[…] Alberta Ltd. ("**164 Delaware**"). At all material times thereafter, Zang was the sole director and officer of 164 Delaware.

22. On or about April 23, 2014, Zang made arrangements with RGMP to transfer the KCL shares then remaining in Zang's and 164 Alberta's trading accounts at RGMP to brokerages located in the USA.

23. On or about April 29, 2014, with Zang's knowledge and approval, A.P. arranged for trading accounts to be opened in the name of Zang and 164 Delaware at COR[…] ("**COR**"), a brokerage located in the USA.

24. On April 30, 2014, at A.P.'s request, Zang paid for a legal opinion pursuant to a USA regulatory requirement, which enabled 29.5 million shares in the name of Zang and 49.5 million shares in the name of 164 Delaware to be deposited with COR to be sold.

25. M.C. provided the legal opinion. He relied on a Share Compensation Agreement that indicated KCL would provide 164 Delaware with 495,000 shares in exchange for technical and consultation services for oil and gas exploration. A.P. emailed that document to Zang on May 1, 2014, but it was dated March 27, 2013. Zang signed and returned the document on May 1, 2014 over a date of March 27, 2013.

26. On A.P.'s instruction, Zang filled out Heightened Risk Security Policy Questionnaires ("**Questionnaire**") for the KCL shares to be deposited into the COR accounts. On the Questionnaire, when asked when did 164 Delaware acquire the shares, Zang wrote, "Agreed to March 27, 2013" and indicated that 164 Delaware had provided KCL with "consulting services" as consideration for those shares.

27. On June 3, 2014, A.P. arranged for the deposit of the 29.5 million KCL shares into Zang's account at COR, and for the 49.5 million shares to be deposited into 164 Delaware's account at COR.

28. On June 7, 2014, Zang granted A.P. trading authority over the account in his name at COR, and the following day Zang granted A.P. trading authority over the account in 164 Delaware's name at COR.

29. At the direction of A.P., between July 17 and September 5, 2014, all or substantially all of the KCL shares were sold out of 164 Delaware's account at COR. Zang received repayment of the June Loan from the proceeds of these sales.

30. Also, at the direction of A.P., between September 3 and September 9, 2014, all KCL shares were sold out of Zang's account at COR.

31. Other than as described above, Zang had no involvement in the sales of trades referenced at paragraphs 16, 20, 29, and 30.

32. Commission Staff's investigation determined (and the LSA agrees) that any profit realized by Zang from trades of KCL shares following the issuance of the CTO was nominal.

If anything in the Investigation Report (Exhibit 11) conflicts with the above, this Agreed Statement of Fact prevails. The parties retain the right to adduce additional evidence and to make submissions on the effect of and weight to be given to these agreed facts.

September 20, 2023	"John Zang"
Date	John C. Zang

Appendix B

Citation: Re Zang, 2019 […] **Docket: ENF-[…]**
Date: 20191112

SETTLEMENT AGREEMENT
AND UNDERTAKING

John Charles Zang

Introduction

1. Staff of the Alberta Securities Commission (**Staff** and **Commission**, respectively) conducted an investigation into John Charles Zang (**Zang**) to determine if Alberta securities laws had been breached.

2. The investigation confirmed and Zang admits that he breached those sections of the *Securities Act.* R.S.A. 2000, c. S-4, as amended, (*Act*), referred to in this Settlement Agreement and Undertaking (**Agreement**), and that he acted contrary to the public interest.

3. Soley for securities regulatory purposes in Alberta and elsewhere, and as the basis for the settlement and undertakings referred to in paragraph 41 and for no other use or purpose, Zang agrees to the facts and consequences of this agreement.

4. Terms used in the Agreement have the same meaning as provided in the Alberta securities laws, a defined term in the *Act*.

Overview

5. In a Notice of Hearing dated October 11, 2017, Staff allege a market manipulation scheme involving multiple parties and jurisdictions, commonly referred to as a “pump and dump”. The allegations identify a number of indicia common to this type of scheme, including:

    5.1 use of nominees to hide beneficial ownership of a dominant controlling position of an issuer’s securities;

    5.2 release of untrue or unduly promotional material and a promotional campaign designed to create interest in an artificial value for the securities;

5.3 use of forward share splits to exponentially increase the number of securities available for trading; and

5.4 sale of securities by insiders when the market price is inflated.

6. The Notice of Hearing further states that market manipulation schemes, including pump and dump schemes, are incompatible with a fair and efficient capital market operating on accurate information and genuine supply and demand.

7. Zang's role in this matter entailed the following:

7.1 causing corporate entities controlled by him to hold large amounts of shares in K.C. Ltd. (**KCL**), a substantial portion of which were in fact controlled by A.P., a *de facto* control person of KCL. Zang was not the beneficial owner of these shares;

7.2 twice loaning funds to KCL that Zang ought to have known would be used to finance a promotional campaign for KCL's securities (**Promotional Campaign**): and

7.3 facilitating A.P.'s sale of KCL shares in the United States following the issuance of a cease trade order by the Commission on April 3, 2014.

Other Parties Relevant to this Agreement

8. KCL was incorporated under the laws of Belize on May 25, 2011. At all material times, it maintained an office address and management presence in Calgary, Alberta. KCL's stated business was investment in and development of future contingent oil and gas interests in regions of Africa seeking or purporting to seek self-determination.

9. A.P. is an individual whose last known address was in Oakville, Ontario. At all material times, A.P. held himself out as a lawyer licensed to practice law in the USA, and as an attorney for KCL.

10. J.L. is a resident of Hilton Head, South Carolina. At all material times, J.L. held himself out as a lawyer licensed to practice law in the USA, and as an attorney for KCL.

Agreed Facts

11. Zang is a resident of Calgary, Alberta. At all material times, Zang was a lawyer licensed to practice in Alberta. Staff's investigation did not uncover any evidence that Zang provided legal services in relation to this matter.
12. All of Zang's business dealings with respect to KCL were with A.P. and J.L.

KCL Shareholdings

13. Zang negotiated a purchase of 300,000 KCL shares in June 2013 through correspondence with A.P. and J.L. without meeting either of them in person.

14. These KCL shares were deposited into Zang's trading account at [RGMP] Limited (**RGMP**).

15. On or about March 3, 2014, KCL underwent a 100-for-1 forward split of its issued and outstanding shares, which had the effect of increasing the number of KCL's issued and outstanding shares to a total of 500 million.

16. The number of shares in Zang's trading account at RGMP was accordingly increased by 100 times in a total of 30 million.

17. On March 26, 2014, Zang granted A.P. a trading authorization over the RGMP trading account of Zang's wholly-owned company, 164[…] Alberta Ltd. (**164 Alberta**).

18. On approximately March 27, 2014, at the direction of A.P., over 200 million shares in KCL were deposited into 164 Alberta's account at RGMP. Neither Zang nor 164 Alberta beneficially owned these shares.

Loans to KCL

19. On A.P.'s advice that KCL required money to pay promoters in relation to the Promotional Campaign, Zang loaned $22,136 USD to KCL (the **March Loan**).
20. Between March 27 and April 4, 2014, over 1.5 million KCL shares in 164 Alberta's account were traded on Patel's direction. Zang was repaid the March Loan from the trade proceeds.
21. Zang again loaned funds to KCL on June 10, 2014, by wiring $25,000 USD to A.P. (the **June Loan**).

Cease Trade Order

22. On April 3, 2014, the Commission issued a cease trade order for KCL's shares (**CTO**) pursuant to section 33.1 of the *Act* (the failure to comply with filling requirements in Alberta), directing that trading or purchasing cease in respect of any security of the KCL until the order is revoked or varied. The CTO was amended in February 2015 to reflect KCL's name change to [NIT] and remains in effect.

23. Zang admits that he was informed of the CTO by A.P. on April 5, 2014.

24. Of the 1.5 million KCL shares traded in 164 Alberta's account on A.P.'s direction, over 100,000 were traded after the CTO was issued.

25. On April 17, 2014, Zang incorporated a Delaware corporation named 164[…] Alberta Ltd. (**164 Delaware**). At all material times thereafter, Zang was the sole director and officer of 164 Delaware.

26. On or about April 23, 2014, Zang made arrangements with RGMP to transfer the KCL shares then remaining in Zang's and 164 Alberta's trading accounts at RGMP to brokerages located in the USA.

27. On or about April 29, 2014, with Zang's knowledge and approval, A.P. arranged for trading accounts to be opened in the name of Zang and 164 Delaware at [COR], a brokerage located in the USA.

28. On April 30, 2014, at A.P.'s request, Zang paid for a legal opinion pursuant to a USA regulatory requirement, which enabled 29.5 million shares in the name of Zang and 49.5 million shares in the name of 164 Delaware to be deposited with COR to be sold.

29. On June 3, 2014, A.P. arranged for the deposit of the 29.5 million KCL shares into Zang's account at COR, and for the 49.5 million shares to be deposited into 164 Delaware's account at COR.

30. On June 7, 2014, Zang granted A.P. trading authority over the account in his name at COR, and the following day Zang granted Patel trading authority over the account in 164 Delaware's name at COR.

31. At the direction of A.P., between July 17 and September 5, 2014, all of substantially all of the KCL shares were sold out of 164 Delaware's account at COR. Zang received repayment of the June Loan from the proceeds of these sales.

32. Also at the direction of Patel, between September 3 and September 9, 2014, all KCL shares were sold out of Zang's account at COR.

33. Other than as described above, Zang had no involvemtn in the sales or trandes referenced at paragraphs 20, 24, 31, and 32.

34. Staff's investigation determined that any profit realized by Zang from trades of KCL shares following the issuance of the CTO was nominal.

Admitted Breaches of Alberta Securities Laws

35. Based on the Agreed Facts, Zang admits that he:

35.1 breached section 93.1 of the *Act* by directly or indirectly engaging in an act or course of conduct in furtherance of the sale of KCL shares, following the issuance of the CTO, by:

35.1.1 obtaining a legal opinion from a United States attorney which enabled KCL shares to be deposited with COR and sold in the United States;

35.2 breached section 93(a)(i) by indirectly engaging in a course of conduct that he ought to have known may contribute to an artificial price for the shares of KCL by:

35.2.1 loaning funds to KCL that he ought to have known would be used by A.P. and/or KCL to finance the Promotional Campaign; and

35.3 engaged in conduct contrary to the public interest by:

35.3.1 failing to identify and adequately respond to suspicious circumstances surrounding the management, business operations, and promotional activities of KCL.

Circumstances Relevant to Settlement

36. Zang did not personally provide instruction to sell shares of KCL following the issuance of the CTO.

37. Zang was not part of the management of KCL, nor was he a director or officer of KCL.

38. Other than the March Loan and June Loan, Zang played no role in the Promotional Campaign and Staff's investigation did not uncover any evidence that Zang was aware of the contents of the promotional material that formed part of the Promotional Campaign.

39. Zang has not been previously sanctioned by the Commission. During Staff's investigation, he attended multiple compelled interviews and provided considerable documentary evidence to Staff.

40. Staff's investigation commenced in the spring of 2014 and resulted in the issuance of the Notice of Hearing.

Settlement and Undertakings

41. Based on the Agreed Facts and Admitted Breaches, Zang agrees and undertakes to the Executive Director of the Commission to:

41.1 pay to the Commission a monetary settlement of $70,000, inclusive of costs;

41.2 be prohibited for a period of six years from:

41.2.1 acting as a director or officer, or both, of any reporting issuer 0 with the exception he can act in those capacities with respect to [NE] Corp. to an until the earlier of April 1, 2020 and the completion of an agreement pursuant to which NE intends to acquire new material assets, subject to NE's compliance with Alberta securities laws.

41.2.2 trading in or purchasing any securities or derivatives, with the exception of:

41.2.2.1. trades or purchases of securities made for the sole benefit of Zang through his self-directed registered retirement savings plan account;

41.2.2.2. trades or purchases of securities made for the sole benefit of Zang, provided that any brokerage company used to facilitate such trades or purchases shall first be provided with a copy of this Agreement;

41.2.3. acting as a trustee or beneficiary for any reporting issuer;

41.3. withdraw the complaint he has made to the Privacy Commissioner regarding the conduct of the Commission;

41.4. discontinue any and all motions, appeals, or proceedings in any court on a without cost basis; and

41.5. withdraw any currently outstanding applications he ahs made to the panel of the Commission.

Administration

42. Zang acknowledges that he received independent legal advice and has voluntarily made the admissions and undertakings in this Agreement.

43. Zang waives any right existing under the *Act*, or otherwise, to a hearing, review, judicial review or appeal of this matter.

44. Zang acknowledges and agrees that the Commission may enforce this Agreement in the Court of Queen's Bench or in any other court of competent jurisdiction.

45. Zang understands and acknowledges that this Agreement may form the basis for securities related orders in other jurisdiction in Canada. The securities laws of some other Canadian jurisdictions may allow for provisions of a settlement agreement made in this matter to be given parallel effect in those other jurisdictions automatically, without further notice to him. Zang understands and acknowledges that he should contact the securities regulator of any other jurisdiction in which he may intend to engage in any securities related activities.

46. Execution and fulfillment of the terms of this Agreement by Zang resolves all issues involving Zang relating to the conduct described above, and Staff will take no further steps against him arising from these facts.

47. This Agreement may be executed in counterpart.

Signed by John Charles Zang at Calgary, Alberta this 17 day of November 2019, in

_____
WITNESS NAME

_____
SIGNATURE

"John Zang"
John Charles Zang

ALBERTA SECURITES COMMISSION

Calgary, Alberta 12 November 2019

_____
[D.L.], Q.C.
Executive Director