



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue Queen Ouest
Toronto ON M5H 3S8

Citation: Threegold Resources Inc. (Re), 2021 ONSEC 5
Date: 2021-02-08

**IN THE MATTER OF
THREEGOLD RESOURCES INC.,
VICTOR GONCALVES and JON SNELSON**

**REASONS AND DECISION FOR APPROVAL OF A SETTLEMENT
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)**

Hearing: In writing

Decision: February 8, 2021

Panel: Timothy Moseley Vice-Chair and Chair of the Panel
Raymond Kindiak Commissioner
Heather Zordel Commissioner

Appearances: Alexandra Matushenko For Staff of the Commission

Patrick J. Sullivan For Victor Goncalves

Sara J. Erskine For Jon Snelson

No one appearing for Threegold Resources Inc.

REASONS AND DECISION

- [1] Threegold Resources Inc. is a reporting issuer in all provinces and territories in Canada. At the relevant time, Victor Goncalves was the president, CEO and a director of Threegold, and Jon Snelson was the treasurer and a director of Threegold. Mr. Snelson was also at various times a registered salesperson or dealing representative under the categories of mutual fund dealer and limited market dealer.
- [2] Staff of the Ontario Securities Commission alleges that Threegold, and Messrs. Goncalves and Snelson, contravened Ontario securities law by issuing securities of Threegold; specifically, convertible debentures. Staff, Mr. Goncalves and Mr. Snelson have entered into a settlement agreement regarding those allegations, and they jointly submit that it would be in the public interest for the Commission to approve that settlement. We agree.
- [3] The facts, which are set out in detail in the settlement agreement, include the following:
- a. in May 2014, the Commission issued an order cease trading all securities of Threegold, because Threegold had failed to make required continuous disclosure filings;
 - b. that cease trade order remains in effect;
 - c. despite the cease trade order being in effect, Mr. Goncalves and Mr. Snelson engaged in the sale and/or distribution of \$310,000 of the Threegold debentures to 19 Ontario residents, 15 of whom were Mr. Snelson's mutual fund clients; and
 - d. neither Mr. Goncalves nor Mr. Snelson was registered under Ontario securities law to engage in that activity.
- [4] Mr. Goncalves and Mr. Snelson have agreed that by engaging in this conduct, they contravened Ontario securities law by:
- a. breaching the cease trade order;
 - b. engaging in the business of trading in securities without being registered to do so, and without an available exemption under Ontario securities law; and
 - c. distributing the Threegold debentures without a prospectus, again without an available exemption.
- [5] Mr. Goncalves and Mr. Snelson also admit that as officers and directors of Threegold, they authorized Threegold to commit these same contraventions, and that, as a result, they are deemed to have not complied with Ontario securities law.
- [6] The investors who contributed the \$310,000 have neither had their principal returned to them, nor received any interest payments on the debentures. Mr. Goncalves and Mr. Snelson assert, and Staff does not object, that the funds were used to pay Threegold's expenses and to compensate Mr. Goncalves and Mr. Snelson for services they provided to Threegold as employees.
- [7] The parties to this settlement have agreed to various sanctions.

- [8] Both Mr. Goncalves and Mr. Snelson are required to pay to the Commission a \$30,000 administrative penalty and \$10,000 in costs. Mr. Goncalves has already paid the required amount. Mr. Snelson represents that he is currently unable to pay the agreed-upon financial sanctions, and in that regard he has filed a sworn Statement of Financial Condition. That sworn statement indicates that he is in a situation of financial hardship. We have taken this statement into account in reaching our decision, but we order that the statement remain confidential, pursuant to s. 2(2) of the *Tribunal Adjudicative Records Act, 2019*, SO 2019, c 7, Sch 60 and Rule 22(4) of the Commission's *Rules of Procedure and Forms*, (2019), 42 OSCB 9714.
- [9] In addition, both Mr. Goncalves and Mr. Snelson are banned from the capital markets (subject to limited carve-outs) for a period of four years. In the case of Mr. Snelson, if he has not fully paid the financial sanctions by the end of that four-year period, the bans are to be extended until such time as he has.
- [10] The Commission's role at a settlement hearing is to determine whether the negotiated result falls within a range of reasonable outcomes, and whether it would be in the public interest to approve the settlement. The Commission respects the negotiation process and accords significant deference to the resolution reached by the parties.
- [11] In our view, this settlement does fall within a range of reasonable outcomes. In reaching that conclusion, we do not lose sight of the fact that Mr. Snelson has considerable experience as a registrant, and Mr. Goncalves does not. This Commission has repeatedly held that when it comes to determining appropriate sanctions, a respondent's present or historical registration status is an important consideration. If all other things were equal, we would expect to see more severe sanctions for Mr. Snelson than for Mr. Goncalves.
- [12] All other things are not equal, however. As is reflected in more detail in the settlement agreement, Mr. Snelson has already been subject to other sanctions relating to the conduct at issue here. In a settlement before the Mutual Fund Dealers Association of Canada in late 2018, Mr. Snelson agreed to pay a fine of \$20,000 and costs of \$5,000, and to be subject to a four-year ban on conducting any securities-related business while in the employ of or associated with any MFDA member. That four-year ban has been running for almost two and a half years at this point. As a result, the sanctions agreed to here will extend the time period during which Mr. Snelson cannot carry on the business for which he had previously been registered, to at least six and a half years.
- [13] In all the circumstances, we conclude that the sanctions in this proceeding are appropriate for both Mr. Goncalves and Mr. Snelson, and that it would be in the public interest for us to approve the settlement. We shall therefore issue an order substantially in the form of the draft attached to the settlement agreement. The proceeding continues as against Threegold, which is not a party to the settlement agreement.

