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## OSC says Jowdat Waheed used confidential information to ‘unfair advantage’ in hostile Baffinland bid

By Barbara Shecter, Financial Post January 14, 2013

Jowdat Waheed used confidential information he obtained as a consultant to “unfair advantage” by launching a hostile bid for Baffinland Iron Mines Corp., a lawyer for the Ontario Securities Commission said Monday as a high-profile insider trading and tipping case got underway.

Mr. Waheed is accused alongside his partner in the takeover bid, Bruce Walter.

Jennifer Lynch, senior counsel at the OSC, said the regulator will present evidence that Mr. Waheed kept confidential and undisclosed information concerning Baffinland on his home computer after he stopped working for the junior mining firm in April of 2010.

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The regulator says he used information about a planned joint venture obtained from managers, directors and Baffinland’s largest shareholder that was not disclosed to the public to gain a “toehold” investment in Baffinland on Sept. 9, 2010, before launching the hostile bid later that month.

Ms. Lynch said the case “goes to the very heart” of the regulators dual mandate to protect investors and the integrity, fairness and efficiency of the capital markets.

Ms. Lynch said there was speculation among analysts and media that Baffinland was discussing a possible joint venture with large mining company ArcelorMittal but that did not constitute disclosure of information about the planned joint venture that was known to Mr. Waheed and, by extension, Mr. Walter, she said.

“Guessing or speculating is not the same thing as generally disclosed,” Ms. Lynch said.

Mr. Waheed and Mr. Walter attended the first day of the hearing, which is expected to last five weeks, and could include testimony from more than 30 witnesses. Mr. Walter’s daughter was also at the hearing in Toronto.

On Monday afternoon, Mr. Waheed’s lawyer said he will challenge the regulator’s allegations, which largely boil down to a civil breach of an employment contract that Baffinland never pursued.

“There was no tipping, there was not trading with undisclosed material information,” Paul Steep told the OSC panel.

He added that much changed after Mr. Waheed left Baffinland.

Mr. Waheed was in Pakistan for most of August when advanced talks between Baffinland and Arcelor were taking place for the first time, his lawyer said after reading several pieces of correspondence to the panel.

“This information has not been communicated to Mr. Waheed” as of Aug. 10, 2010, Mr. Steep said. “There’s no tipper in this case.”

Ms. Lynch acknowledged in her opening arguments that this is not a “typical” insider trading case, but she said the elements of the infraction were met.

Mr. Waheed had information that had not been disclosed to the public and shared it with others including Mr. Walter and bankers in Canada and the United States in pursuit of the Baffinland takeover, she said.

“Mr. Waheed and Mr. Walter had an unfair advantage over the market,” Ms. Lynch told the panel.

Mr. Walter’s lawyer expected to open his defence on Wednesday

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