

Corporate Securities Law

August 8, 2014

Sino-Forest CFO's Settlement Agreement Highlights Standards of Executive Responsibility

The settlement agreement recently entered into between Staff of the OSC and David Horsley, former CFO of Sino-Forest Corporation, provides meaningful guidance on the responsibilities of senior executives, particularly those serving for issuers with overseas business operations.

The settlement agreement outlines the weaknesses in Sino-Forest's disclosures and controls, including the failure to disclose the relationships it had with certain suppliers and customers, the inability to confirm cash flows for most of its purchase and sale transactions, non-disclosure of the company's high dependence on (and the weaknesses and risks associated with) certain commercial arrangements, and critical flaws in the documentation process (including backdating of agreements).

Horsley, in his capacity as CFO, had oversight of all financial aspects of Sino-Forest's affairs, and was ultimately responsible for the integrity of its financial reporting. The settlement agreement emphasizes Horsley's failure to obtain the requisite first-hand knowledge of the company's business and operating environment; a duty that was heightened because of

the company's overseas operations (in the People's Republic of China). Most key contracts were written in a foreign language. Horsley acknowledged in the settlement agreement that he placed undue reliance on the representations made to him by other members of Sino-Forest's senior management team, who were based in Asia.

The settlement agreement makes clear that:

- officers of publicly-traded issuers have personal, individual responsibility to diligently acquire first-hand knowledge necessary to fulfill their roles;
- such executives will be held accountable for sins of omission, even where there are no allegations of fraud or no indication of dishonesty or wilful blindness; and
- while the issuer's operations may be conducted in distant jurisdictions, Canadian standards for internal controls, disclosure controls and public disclosure generally will be applied, and the remoteness of those operations may impose heightened responsibilities on management team members.

Under the terms of the settlement, Horsley agreed to pay a \$700,000 fine and was permanently banned from being an officer or director of a public company or investment fund manager, and from acting as a registrant, investment fund manager or promoter.

Please contact any member of our Corporate Securities Group to discuss this settlement agreement and how it may affect your obligations under Canadian securities law.