

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Administrative Proceedings Rulings
Release No. 5432 / January 2, 2018

Administrative Proceeding
File No. 3-18017

In the Matter of

**Can-Cal Resources Ltd.,
China Fruits Corp., and
Skystar Bio-Pharmaceutical Co.**

**Order On Substitution of
Exhibits**

Pending motion

This proceeding was begun with an order instituting proceedings on June 8, 2017. I have issued an initial decision on default as to two of the Respondents, leaving only Can-Cal Resources Ltd. *See Can-Cal Res. Ltd.*, Initial Decision Release No. 1178, 2017 SEC LEXIS 2898 (ALJ Sept. 19, 2017). On September 19, 2017, I denied intervention to thirty-five Can-Cal shareholders but made their filing part of the record and allowed them to address the public interest issue. *See Can-Cal Res. Ltd.*, Admin. Proceed. Rulings Release No. 5064, 2017 SEC LEXIS 2909, at *10-11. The Division of Enforcement filed a motion for summary disposition on November 3, 2017. The motion for summary disposition includes the declaration of Neil J. Welch Jr., with seven exhibits. Exhibit 5 is a printout dated November 3, 2017, from the OTC Markets website, <https://www.otcmarkets.com>, for Can-Cal's stock symbol, CCRE.¹

¹ On December 5, 2017, pursuant to a Commission directive, I extended the deadline for Can-Cal's opposition to the motion and the shareholders' supplemental brief to January 5, 2018, with the Division's reply due by January 16, 2018. January 5, 2018, is also the due date for Can-Cal and the other Respondents to file any new evidence relevant to my reexamination of the record. *See Can-Cal Res. Ltd.*, Admin. Proc. Rulings Release No. 5269, 2017 SEC LEXIS 3836 (ALJ Dec. 5, 2017).

On December 13, 2017, the Division filed a motion to substitute the sworn declaration of Robert W. Nesbitt with exhibits 8-9 in place of exhibit 5 of the Welch declaration (Motion).² The Motion claims substitution is necessary because exhibit 5 to the Welch declaration is inaccurate and does not support the statement for which it is cited. Mot. at 1. According to the Division, some type of inadvertent glitch caused the inaccurate printout from the OTC Markets website. *Id.* at 1-2.

On December 13, 2017, the Division sent the Motion by priority mail express to Can-Cal's counsel in Las Vegas, Nevada. Opposition to the Motion was due within eight days after service of the motion, not counting weekends and holidays, which was December 26, 2017. 17 C.F.R. §§ 201.154, .160. As of the date I issued this order, no opposition was filed to the Motion.

Ruling

The Motion satisfies the requirements of Rule 154(a): it is in writing and states with particularity the basis for the request and the relief sought, and the Nesbitt declaration provides the authorities relied upon.

Based on a printout from the OTC Markets website on November 3, 2017, the Division's summary disposition motion represented that 38 trades in Can-Cal had a share volume of 1.4 million, and a value of \$1.14 million. Summ. Disposition Mot. at 3; Welch Decl. Ex. 5. The Division now disavows the representation because the supporting exhibit is inaccurate and it seeks to substitute accurate information. The substitute exhibits are two printouts from Bloomberg Financial showing there were 29 trades in Can-Cal shares for an approximate value of \$8,700 between January 3 and November 28, 2017.³ Nesbitt Decl. at 2; Ex. 9.

For good cause shown, I GRANT the Motion and STRIKE Welch declaration exhibit 5 from the record and allow into evidence the Nesbitt declaration and exhibits 8-9. I also STRIKE from the summary disposition motion in the second paragraph on page three, the following, "and its stock

² Nesbitt is a market surveillance specialist in the Division's Office of Market Surveillance. Nesbitt Decl. at 1.

³ Nesbitt declaration exhibit 8 is a six-page "Historical Price Table" from the Bloomberg Financial database showing daily price and volume in Can-Cal stock from January 3, through December 31, 2017. Exhibit 9 is a two-page "Trade/Quote Recap" from the same database showing the volume and execution price for each trade from January 3, through November 28, 2017.

had 38 trades on the over-the-counter markets with a dollar volume of \$1.1 million and share volume of 1.4 million shares. (Welch decl., Ex. 5.)”

Brenda P. Murray
Chief Administrative Law Judge