

INITIAL DECISION RELEASE NO. 424  
ADMINISTRATIVE PROCEEDING  
FILE NO. 3-14271

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

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In the Matter of :  
:   
BIO-LIFE LABS, INC., :  
BSI2000, INC., : INITIAL DECISION AS TO  
CALAIS RESOURCES, INC., : CALAIS RESOURCES, INC.  
EGX FUNDS TRANSFER, INC., : July 25, 2011  
FISCHER IMAGING CORP., :  
GREAT WESTERN LAND RECREATION, INC. :  
(A/K/A GREAT WESTERN LAND AND :  
RECREATION, INC.), and :  
ID-CONFIRM, INC. :

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APPEARANCES: David S. Frye and Kyle DeYoung for the Division of Enforcement,  
Securities and Exchange Commission

John A. Hutchings and Fay M. Matsukage for Calais Resources Inc.

BEFORE: Brenda P. Murray, Chief Administrative Law Judge

**Background**

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on February 24, 2011, alleging that Respondents failed to comply with Section 13(a) of the Securities Exchange Act of 1934 (Exchange Act) and Exchange Act Rules 13a-1 and 13a-13. The Commission directed an Initial Decision by July 25, 2011.

The allegations against all Respondents except Calais Resources Inc. (Calais Resources), have been resolved. See Bio-Life Labs, Inc., Exchange Act Release No. 64093 (Mar. 18, 2011) and Exchange Act Release No. 64482 (May 13, 2011). The OIP alleges that Calais Resources:

is a British Columbia corporation located in Nederland, Colorado with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). [Calais Resources] is delinquent in its periodic filings with the

Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended August 31, 2004, which reported a net loss of \$1,712,821 Canadian for the prior three months. As of February 16, 2011, the common shares of [Calais Resources] were quoted on OTC Link, had eleven market makers, and were eligible for the piggyback exception of Exchange Act Rule 15c2-11(f)(3).

OIP at 2.<sup>1</sup>

Calais Resources admits these allegations except it states that the loss amount alleged is inaccurate.<sup>2</sup> Answer at 1. In its Answer and at prehearing conferences, Calais Resources admitted its failure to file periodic reports, but insisted that it is trying to cure the deficiencies, and that mitigating circumstances make revocation of its registration inappropriate.

On June 14, 2011, Chauncey L. Martin, Assistant Chief Accountant, Office of Enforcement Liaison, Division of Corporation Finance (Corporation Finance), filed a Declaration (Martin Declaration) stating that Calais Resources:

1. had not filed annual reports (Forms 10-K) for fiscal years ended May 31, 2005, through May 31, 2008, and quarterly reports (Forms 10-Q) for the periods ended November 30, 2004 through February 28, 2009;
2. filed Forms 10-K for the periods ended May 31, 2009, and May 31, 2010, however, these Forms 10-K contain financial information for fiscal years 2005 through 2008, which are unaudited, fail to include the reports of any auditors for the periods from December 30, 1986 through May 31, 2004, and do not disclose the audit fees for the current auditor, Stark Schenkein, LLP, as required; and
3. filed Forms 10-Q for the periods ended, August 31 and November 10, 2010, and February 28, 2011, on May 20 and May 26, 2011, respectively, which appear to have no material deficiencies.

I granted Calais Resources' request for time to respond to the Martin Declaration and set a fourth prehearing conference on July 18, 2011. On July 15, 2011, Calais Resources filed a Declaration of Fay M. Matsukage (Matsukage Declaration) that made the following representations:

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<sup>1</sup> On July 21, 2011, the OTC Markets web site stated that it "has discontinued the display of quotes on [www.otcmarkets.com](http://www.otcmarkets.com) because it has been labeled Caveat Emptor (Buyer Beware) and because adequate current information has not been made available by the issuer of the securities." See [www.otcmarkets.com](http://www.otcmarkets.com).

<sup>2</sup> Calais Resources' Form 10-QSB filing for the period ended August 31, 2004, confirms the OIP statement of a net loss of \$1,712,821 Canadian for the prior three months under U.S. GAAP. See 17 C.F.R. § 201.323.

1. Calais Resources has been working diligently with a new auditor since about March 10, 2011 (Matsukage Declaration at ¶ 8-9);
2. Calais Resources, as of July 14, 2011, has filed all quarterly and annual reports for the periods ended November 30, 2004, through February 28, 2011, which include annual reports for 2005 through 2010 (Matsukage Declaration at ¶ 10);
3. Calais Resources' quarterly reports for the quarters ended August 31, 2003, November 30, 2003, February 29, 2004, and August 31, 2004, and its annual report for the fiscal year ended May 31, 2004, contained financial statements prepared in accordance with Canadian GAAP, with a reconciliation to U.S. GAAP (Matsukage Declaration at ¶ 15-17);
4. In contrast to U.S. GAAP, Canadian GAAP does not identify companies as developmental or exploration stage and does not require "cumulative from inception" information in the balance sheet, income statement, statement of shareholders' equity and statement of cash flows (Matsukage Declaration at ¶ 18);
5. Since its financial statements prepared prior to the fiscal year ended May 31, 2005, were prepared in accordance with Canadian GAAP, Calais Resources did not include audit reports covering these prior periods (Matsukage Declaration ¶ 19);
6. Calais Resources did not disclose any audit fees paid to Stark Schenkein LLP in its annual reports for fiscal years ended May 31, 2005, through 2010 because those fees were billed during the fiscal year ended May 31, 2011, and the current fiscal year (Matsukage Declaration ¶ 21); and
7. Calais Resources did not receive comments from Corporation Finance through the usual comment practice. The only comments it received were those contained in the Martin Declaration filed in this proceeding (Matsukage Declaration ¶ 22).

On July 18, 2011, the Division of Enforcement (Division) filed a letter stating that:

1. Calais Resources is incorrect that Form 10-K does not require disclosure of audit fees incurred outside the period being audited. A decade-old Commission staff interpretation makes clear that audit fees billed or expected to be billed for the period being audited should be disclosed;
2. The "cumulative since inception" column is a required part of the year-end financial statements for a developmental or exploration stage company and is required to be covered by an independent audit report filed with the Form 10-K. The financial statements filed by Calais Resources with its annual reports for 2005, 2006, and 2007, however, are not in compliance with GAAP and Regulations S-K and S-X because they express no opinion on financial information prepared prior to May 31, 2005,

audited by other auditors. Calais Resources has not filed an independent auditor's report covering those periods; and

3. Calais Resources falsely claims to have filed Forms 10-K for the periods ended May 31, 2005, and 2006. Calais Resources filed a single Form 10-K for the period ended May 31, 2007, which purports to cover those periods. However, on January 31, 2011, Corporation Finance's Office of the Chief Accountant denied Calais Resources' request to make this single "super 10-K" filing.<sup>3</sup>

### **Findings of Fact and Conclusions of Law**

Section 12(j) of the Exchange Act authorizes the Commission "as it deems necessary or appropriate for the protection of investors," to suspend for a period not exceeding twelve months, or revoke, the registration of a security if it finds that the issuer of such security has failed to comply with any provision of the Exchange Act or its rules or regulations.

Calais Resources admits that it has not filed periodic reports and is in violation of Section 13(a) of the Exchange Act and Exchange Act Rules 13a-1 and 13a-13. Answer at 2. The Commission has set out certain factors to be considered in determining what sanction will ensure that the public is protected. See Gateway Int'l. Holdings, Inc., Exchange Act Release No. 53907 (May 31, 2006), 88 SEC Docket 430. These non-exclusive factors include "(i) the seriousness of the issuer's violations; (ii) the isolated or recurrent nature of the violations; (iii) the degree of culpability involved; (iv) the extent of the issuer's efforts to remedy its past violations and ensure future compliance; and (v) the credibility of its assurance, if any, against further violations." See American Stellar Energy, Inc., Exchange Act Release No. 64897, slip at 7 citing Gateway.

As an initial matter, Calais Resources' violations are serious. Federal case law is emphatic and consistent that "[c]orporate financial statements are one of the primary sources of information available to guide the decisions of the investing public." U.S. v. Arthur Young & Co., 465 U.S. 805, 810 (1984). The Commission's case law stresses that current and prospective investors are entitled to access to a registrant's periodic reports. American Stellar Energy, Exchange Act Release No. 64897, slip at 9.

Calais Resources' violations were recurrent. It was delinquent in its periodic filings for six years, from 2004 through 2010, and the Commission sent a delinquency letter in 2007 before instituting this proceeding in 2011. See OIP at 2; Prehearing Tr. June 24, 2011, at 39. Calais Resources did not file most of the missing periodic reports until July 2011, shortly before the due date for an Initial Decision in this proceeding. Matsukage Declaration, Attachment A.

Calais Resources appears to claim that the Commission was in part responsible for its violations by failing to respond to an inquiry Calais Resources made in February 2011, and for

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<sup>3</sup> The Commission recently found that inclusion of 2008 audited financials in a company's 2009 Form 10-K did not satisfy the obligation under Exchange Act Rule 13a-1 to file a separate annual report for fiscal year 2008. See American Stellar Energy, Inc. (n/k/a Tara Gold Resources Corp.), Exchange Act Release. No. 64897, slip at 9 (July 18, 2011).

not volunteering comments on its filings. Answer at 2; Matsukage Declaration at ¶ 6, 22-24; Prehearing Tr. July 18, 2011, at 57-59. These claims are unpersuasive. This proceeding is not an extension of time to file delinquent reports or correct filing deficiencies as sometimes occurs during the normal filing process. As specified in the OIP, this proceeding is to determine whether violations have occurred, and, whether it is necessary and appropriate for the protection of investors to suspend or revoke the registration of registered securities. See OIP at 3. There is no question that Calais Resources bears full responsibility for its violations. The Commission has found that a long history of ignoring reporting obligations under the Exchange Act evidences a high degree of culpability. See American Stellar Energy, Exchange Act Release No. 64897, slip at 8.

Finally, I held prehearing conferences on March 29, 2011, May 10, 2011, June 24, 2011, and July 18, 2011, to allow Calais Resources every opportunity to follow through on its representation that it would bring its filings up to date. I accept the Division's representation that there are material deficiencies in the filings that Calais Resources has made to date. Despite Calais Resources' efforts and representations, it has not cured the deficiencies set out in the OIP, and there is no assurance of future compliance. See Prehearing Tr. March 29, 2011, at 3-8; Prehearing Tr. May 10, 2011, at 19-20; Prehearing Tr. June 24, 2011, at 32, 38; Prehearing Tr. July 18, 2011, at 60-63. Application of the Gateway criteria indicates that public investors need protection. Accordingly, I find that revocation of Calais Resources' registration of securities is necessary and appropriate in the public interest.

### **Order**

I ORDER that, pursuant to Section 12(j) of the Securities Exchange Act of 1934, the registration of each class of registered securities of Calais Resources Inc. is hereby REVOKED.

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice, 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this Initial Decision within twenty-one days after service of the Initial Decision. A party may also file a motion to correct a manifest error of fact within ten days of the Initial Decision, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct manifest error of fact. The Initial Decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or motion to correct manifest error of fact or the Commission determines on its own initiative to review the Initial Decision as to a party. If any of these events occur, the Initial Decision shall not become final as to that party.

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Brenda P. Murray  
Chief Administrative Law Judge