

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 CARL J. KUNASEK
Chairman
4 JIM IRVIN
Commissioner
5 WILLIAM A. MUNDELL
Commissioner
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8 In the matter of)
9 CALUMET SLAG, INC.,)
an Arizona corporation)
10 13433 N. 16th Avenue)
Phoenix, Arizona 85029)
11 GARETH N. PATTON)
23769 Blue Lead Mountain Road)
12 Hill City, South Dakota 57745)
13 JEFFERY G. CRAWFORD)
14 1822 N. Barkley)
Mesa, Arizona 85203)
15 MATTHEW E. HUNZINGER)
16 13031 N. 59th Drive)
Glendale, Arizona 85304,)
17 Respondents.)
18)
19)

DOCKET NO. S-03361A-00-0000
**NOTICE OF OPPORTUNITY FOR
HEARING REGARDING PROPOSED
ORDER FOR RELIEF**

20 **NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**

21 For its proposed order for relief, the Securities Division (the "Division") of the Arizona Corporation
22 Commission (the "Commission") alleges that Respondents CALUMET SLAG, INC., GARETH N.
23 PATTON, JEFFERY G. CRAWFORD and MATTHEW E. HUNZINGER, singularly and in concert, have
24 engaged in acts, practices and transactions which constitute violations of A.R.S. § 44-1801 *et seq.*, the
25 Securities Act of Arizona (the "Securities Act").
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1 The Division alleges as follows:

2 **I.**

3 **JURISDICTION**

4 1. The Commission has jurisdiction over these matters pursuant to Article XV of the Arizona
5 Constitution and the Securities Act of Arizona.

6 **II.**

7 **RESPONDENTS**

8 2. CALUMET SLAG, INC. ("CALUMET"), whose last known address is 13433 N. 16th
9 Avenue, Phoenix, Arizona, 85029, is an Arizona corporation.

10 3. GARETH N. PATTON ("PATTON"), whose last known address is P.O. Box 312,
11 Keystone, South Dakota, 57751, is the founder, president and director of CALUMET, and at all times
12 relevant to this matter offered and sold shares in CALUMET to investors.

13 4. JEFFERY G. CRAWFORD ("CRAWFORD"), whose last known address is 1822 North
14 Barkley, Mesa, Arizona, 85203, is a former officer and current director of CALUMET, and at times relevant
15 to this matter offered and sold shares in CALUMET to investors.

16 5. MATTHEW E. HUNZINGER ("HUNZINGER"), whose last known address is 13031
17 North 59th Drive, Glendale, Arizona, 85304, was an officer and director of CALUMET until at least 1997,
18 and at times relevant to this matter offered and sold shares in CALUMET to investors.

19 6. Respondents CALUMET, PATTON, CRAWFORD, and HUNZINGER may collectively
20 be referred to as "RESPONDENTS."

21 **III.**

22 **FACTS**

23 7. Each of the preceding paragraphs is incorporated by reference.

24 8. In 1994, RESPONDENTS began a campaign of offering and/or selling shares of CALUMET
25 stock to a number of investors. To attract these investors, RESPONDENTS claimed that CALUMET'S
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1 principal asset, an abandoned slag pile located in the Black Hills of South Dakota, contained high
2 concentrations of valuable ores. RESPONDENTS bolstered this claim by referring to a series of "highly
3 encouraging" assay results purportedly obtained from the slag pile. By the close of 1999, RESPONDENTS
4 had sold over 960,000 shares of CALUMET stock to approximately 180 investors, and in doing so had
5 raised at least five hundred and eighty thousand dollars (\$580,000). Despite generating this capital,
6 CALUMET'S slag pile remains unprocessed.

7 9. PATTON originally obtained joint ownership over the slag pile from his aunt, Ardean Rogers
8 ("Rogers"). This conveyance, which occurred on or about June 15, 1992, included the surrounding land
9 areas, three adjacent tailing dumps, and several defunct mining sites.

10 10. In August of 1992, approximately three months following PATTON'S acquisition of the
11 ownership rights in the slag pile, CALUMET was formed and incorporated in Arizona for the sole purpose of
12 extracting and recovering any valuable ore remaining in the material. PATTON and Rogers were named as
13 the initial directors of CALUMET.

14 11. Subsequent to CALUMET'S incorporation, PATTON assigned the reclamation rights in the
15 slag pile to the company in exchange for 750,000 shares of CALUMET stock. Shortly thereafter, PATTON
16 sold or otherwise gifted another 191,000 shares to various CALUMET incorporators, friends, and family
17 members.

18 12. In 1993, PATTON entered into an agreement with two individuals from J & D Asphalt of
19 South Dakota to process CALUMET'S slag pile. A dispute ensued, and the processing agreement broke
20 down. In response, the two individuals sued CALUMET for breach of contract, seeking hundreds of
21 thousands of dollars in damages. In conjunction with the filing of this suit, these individuals placed a
22 mechanic's lien on CALUMET'S slag pile.

23 13. The following year, PATTON and two of his associates, CRAWFORD and HUNZINGER,
24 began promoting, offering and selling stock in CALUMET to a number of Arizona investors. These three
25 Respondents did not disclose to investors that a lawsuit against CALUMET was pending, that the directors
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1 and officers of CALUMET had little or no expertise in the mining/reclamation industry, that CALUMET was
2 being assessed rental fees for having its asset situated on PATTON'S property, or that the officers and
3 directors of CALUMET were drawing deferred salaries from the company.

4 14. RESPONDENTS also failed to inform investors about the risks to their investments, which
5 was exacerbated by RESPONDENTS' failure to provide investors with written information about these
6 investments.

7 15. In promoting CALUMET to investors, PATTON, CRAWFORD and HUNZINGER
8 represented that trial assays had been conducted on samples of the slag pile, and that the assay results had
9 indicated that the slag pile would be worth tens of millions of dollars when finally processed.

10 16. Beginning in 1994, the costs of CALUMET shares to investors fluctuated from a low of 25¢
11 per share to a high of \$5 per share. In conjunction with these sales, PATTON, CRAWFORD and
12 HUNZINGER told investors that their investment funds were being used for, and were essential to, the
13 advancement of the CALUMET operation. In spite of these claims, investment funds were used for the
14 personal expenses of these sellers.

15 17. CRAWFORD'S father-in law informed one prospective investor about the CALUMET
16 "opportunity" in September of 1994. He told this investor that the CALUMET project involved the
17 reclamation of precious metals from a South Dakota slag pile, and that a sample of this slag was soon to be
18 tested at a site near Chandler, Arizona.

19 18. The prospective investor visited this site, where he observed PATTON, CRAWFORD and
20 HUNZINGER conducting an assay on a purported sample of this slag material. A smelting process was
21 conducted, and PATTON subsequently informed the investor that significant levels of gold, silver and platinum
22 had been recovered from the sample. PATTON, CRAWFORD and HUNZINGER concluded that the full
23 scale smelting operation on this slag was going to be highly profitable.

24 19. Based on the presentation in Chandler, the investor purchased ten thousand dollars (\$10,000)
25 worth of CALUMET stock. This investor was told to make the \$10,000 check payable to PATTON, who
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1 subsequently deposited the check in his personal bank account. This investor received no written materials
2 before or at the time of the investment.

3 20. In November of 1994, CRAWFORD informed this same investor that CALUMET had
4 received another very encouraging assay result, that the shares of CALUMET would be worth approximately
5 \$10 to \$25 per share once the slag pile had been processed, and that a dividend was also a strong possibility.
6 The investor made another five thousand dollar (\$5,000) investment with CALUMET after hearing these
7 representations.

8 21. During a shareholder meeting later that same month, RESPONDENTS told investors that an
9 Arizona mining company, Cyprus Amax Minerals ("Cyprus"), had expressed an interest in processing
10 CALUMET'S slag pile. RESPONDENTS concluded that the reclamation operation on the slag pile would
11 likely be completed in approximately three months. CRAWFORD further announced that CALUMET shares
12 would now cost \$5 per share, but that they would soon be worth \$25 to \$35 per share.

13 22. Hearing these forecasts, the investor mentioned above invested another seventeen thousand
14 five hundred dollars (\$17,500) with CALUMET, drawing two checks payable to HUNZINGER for seven
15 thousand five hundred dollars (\$7,500) and ten thousand dollars (\$10,000). Both of these checks were
16 brought to the investor's bank and cashed by HUNZINGER the next day.

17 23. A Cyprus field geologist did evaluate the CALUMET slag pile and surrounding areas in
18 November of 1994. Following his examination, the geologist issued a report claiming that the size, value and
19 mineral potential of the slag pile and adjacent tailings dumps did not exist as represented. The geologist
20 specifically noted that the slag pile and dumps did not appear to have any value with respect to their mineral
21 contents. The report added that, according to PATTON and HUNZINGER, Cyprus was only invited to
22 consider processing the three tailing dumps on the property (owned by PATTON, HUNZINGER and
23 Rogers), and was not asked there to explore or test other areas.

24 24. On December 4, 1994, Cyprus' Exploration Manager sent PATTON a letter concerning the
25 results of his company's evaluation of the three tailings dumps as well as CALUMET'S slag pile. The
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1 Exploration Manager informed PATTON that there were no significant values in gold or silver in the dumps or
2 the slag pile, and that the tonnage of the pile only contained approximately 500 tons of material. The
3 Exploration Manager continued that Cyprus had no interest in processing either the dumps or the slag pile.

4 25. RESPONDENTS did not disclose to investors the evaluations and conclusions made by
5 Cyprus with respect to the slag pile's precious metal content or size, or to Cyprus' lack of interest in pursuing
6 the project.

7 26. At a CALUMET sales presentation in 1996, officers PATTON, CRAWFORD and
8 HUNZINGER told a prospective investor that recent assay reports on CALUMET'S slag translated into a
9 return of fifteen million dollars (\$15,000,000) for the gold alone, and that significant additional amounts were
10 recoverable for other precious metal extractions. In response to the prospective investor's inquiries about
11 CALUMET'S operations and liabilities, PATTON, CRAWFORD and HUNZINGER continued that, other
12 than one nearly resolved lawsuit, there were no ongoing claims, debts, leases, salaries or other expenses that
13 might affect the value of the CALUMET investment.

14 27. PATTON, CRAWFORD and HUNZINGER also stressed that the proceeds raised from the
15 sale of CALUMET stock would go into operating expenses for the project only, and that the operation would
16 be completed within three to four months. The prospective investor subsequently invested twenty thousand
17 dollars (\$20,000) in the CALUMET project in April of 1996, making the checks payable to PATTON. Bank
18 records show that this individual's funds were deposited into PATTON'S personal bank account.

19 28. This investor received no documentation at the time of his investment, and he was
20 subsequently unable to obtain progress reports or any financial information on the project despite repeated
21 requests for such information.

22 29. In late 1997, CALUMET transported a sample of the slag pile to a milling company in
23 Virginia City, Montana for a trial processing run. The milling company was only able to recover negligible
24 amounts of gold from the sample of CALUMET'S slag. PATTON later told shareholders that the poor
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1 results were due to faulty milling equipment, and PATTON later reported to investors that alternative
2 processing methods would be necessary to extract the precious metals.

3 30. Unrelated to CALUMET'S operations, the South Dakota Department of Environment and
4 Natural Resources conducted an independent trial assay on CALUMET'S slag pile in 1998 as part of its
5 routine inspections for hazardous waste sites. The assay results from this sample showed only trace
6 concentrations of precious metals.

7 31. During July of 1998, a letter was sent to existing shareholders by CALUMET'S newly
8 appointed treasurer informing them for the first time that they owed PATTON substantial sums for his "loans"
9 to CALUMET, for back salaries relating to his on-going services at CALUMET, and for such other
10 expenditures he purportedly made on behalf of CALUMET. PATTON indicated that if these alleged debt
11 obligations were not paid, he would consider selling his property on which the slag pile was situated.

12 32. To date, RESPONDENTS have offered and sold more than 960,000 shares of CALUMET
13 stock to approximately 180 investors. Based on bank records, prior company investor lists, and investor
14 questionnaires, RESPONDENTS have raised at least five hundred and eighty thousand dollars (\$580,000)
15 from such sales. Despite this influx of capital, the only known asset currently in the possession of CALUMET
16 remains the unprocessed slag pile located on PATTON'S property.

17 33. The project remains at a standstill, the exploration permit to move or process the slag has
18 expired, and none of the investors in the CALUMET project have received any return on their investments.

19 IV.

20 VIOLATION OF A.R.S. § 44-1841

21 (Offer and Sale of Unregistered / Unauthorized Securities)

22 34. Each of the preceding paragraphs is incorporated by reference.

23 35. From at least early 1994 forward, RESPONDENTS offered and sold securities, in the form
24 of stock, within and from the State of Arizona.

1 36. The securities referred to above were not registered under A.R.S. §§ 44-1871 through 44-
2 1875, or 44-1891 through 44-1902; were not securities for which a notice filing has been made under A.R.S.
3 § 44-3321; were not exempt under A.R.S. §§ 44-1843 or 44-1843.01; were not offered or sold in exempt
4 transactions under A.R.S. § 44-1844; and were not exempt under any rule or order promulgated by the
5 Commission.

6 37. This conduct violates A.R.S. § 44-1841.

7 **V.**

8 **VIOLATION OF A.R.S. § 44-1842**

9 **(Transactions by Unregistered Dealers and Salesmen)**

10 38. Each of the preceding paragraphs is incorporated by reference.

11 39. In connection with the offers to sell and the sale of securities, RESPONDENTS acted as
12 dealers and/or salesmen within and from the State of Arizona, even though they were not registered pursuant
13 to the provisions of Article 9 of the Securities Act.

14 40. This conduct violates A.R.S. § 44-1842.

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20 **VI.**

21 **VIOLATION OF A.R.S. § 44-1991**

22 **(Fraud in Connection with the Offer and Sale of Securities)**

23 41. Each of the preceding paragraphs is incorporated by reference.

24 42. In connection with the offers and sales of securities within and/or from Arizona,
25 RESPONDENTS directly or indirectly: (i) made untrue statements of material fact or omitted to state material
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1 facts which were necessary in order to make the statements made not misleading in light of the circumstances
2 under which they were made; and/or (ii) engaged in transactions, practices or courses of business which
3 operated or would operate as a fraud or deceit upon offerees and investors. The conduct of
4 RESPONDENTS includes, but is not limited to, the following:

5 a) RESPONDENTS secured investment funds from investors by misrepresenting to
6 investors that the value of CALUMET'S slag pile asset was worth tens of millions of dollars, and that
7 the stock price would be worth many times the share prices being offered at the time.

8 b) RESPONDENTS misrepresented to offerees and investors that their investments in
9 CALUMET would be used to advance the CALUMET reclamation project, when in fact investment
10 monies were used for the personal enrichment of Respondents PATTON, CRAWFORD and
11 HUNZINGER.

12 c) RESPONDENTS misrepresented to investors that a deal with Cyprus had been
13 arranged to process CALUMET'S slag pile within three months, when in fact the offer had only been
14 extended for Cyprus to process three tailing dumps located on PATTON'S property adjacent to the
15 slag pile. These dumps were owned by the company GEMM, whose sole owners consisted of
16 PATTON, HUNZINGER and Rogers.

17 d) RESPONDENTS failed to disclose to offerees and investors that a field evaluation of
18 CALUMET'S slag pile by Cyprus in November of 1994 concluded that CALUMET'S slag pile was
19 well under the five thousand ton size initially represented, that CALUMET'S slag pile contained only
20 trace concentrations of precious metals, and that Cyprus harbored no interest in processing the slag
21 pile.

22 e) RESPONDENTS failed to provide offerees and investors with any written
23 information concerning the CALUMET investment either before or at the time the investments were
24 offered and/or sold. Additionally, financial information was not provided to investors setting forth the
25 income or expenditures of the company.

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REQUESTED RELIEF

The Division requests that the Commission grant the following relief against each respondent:

- 1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
- 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including without limitation a requirement to make restitution pursuant to, *inter alia*, A.R.S. § 44-2032;
- 3. Order RESPONDENTS to pay the State of Arizona an administrative penalty of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036; and
- 4. Order any other relief that the Commission deems appropriate and authorized by law.

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VIII.

HEARING OPPORTUNITY

In accordance with A.R.S. § 44-1972 and A.A.C. R14-4-306, RESPONDENTS are notified that each Respondent is afforded an opportunity for a hearing only by filing a written request for a hearing and cover sheet with Docket Control, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007, within 10 days after service of this Notice. RESPONDENTS are further notified that a cover sheet must accompany all filings. Failure to use the cover sheet may result in the delay of processing or the

1 refusal to accept documents. RESPONDENTS may obtain a copy of the cover sheet by calling Docket
2 Control at (602) 542-3477.

3 The date set for the hearing shall be within 15 to 30 days after the request for the hearing has been
4 docketed, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. Any
5 Respondent who does not request a hearing within the time prescribed is subject to the Commission issuing an
6 order against that Respondent containing such relief as the Commission deems appropriate, including but not
7 limited to the relief requested above.

8 Persons with a disability may request a reasonable accommodation such as a sign language interpreter,
9 as well as request this document in an alternative format, by contacting Cynthia Mercurio-Sandoval, ADA
10 Coordinator, voice phone number 602/542-0838, e-mail csandoval@cc.state.az.us. Requests should be made
11 as early as possible to allow time to arrange the accommodation.

12 Dated this ____ day of _____, 2000.

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15 Mark Sendrow
16 Director of Securities
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