

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 CARL J. KUNASEK
Chairman
4 JIM IRVIN
Commissioner
5 WILLIAM A. MUNDELL
Commissioner
6

7 In the matter of)

8 CALUMET SLAG, INC.,)
an Arizona corporation)
13433 N. 16th Avenue)
9 Phoenix, Arizona 85029)

10 GARETH N. PATTON)
23769 Blue Lead Mountain Road)
11 Hill City, South Dakota 57745)

12 JEFFERY G. CRAWFORD)
1822 N. Barkley)
13 Mesa, Arizona 85203)

14 MATTHEW E. HUNZINGER)
13031 N. 59th Drive)
15 Glendale, Arizona 85304,)

16 Respondents.)
17)
18)

) DOCKET NO. S-03361A-00-0000

) DECISION NO. _____

) **ORDER TO CEASE AND DESIST**
) **AND CONSENT TO SAME BY**
) **RESPONDENT CALUMET SLAG,**
) **INC.**

19 **I.**

20 **INTRODUCTION**

21 Respondent CALUMET SLAG, INC. (“CALUMET”) elects to permanently waive its right
22 to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. §44-
23 1801, *et seq.* (“Securities Act”) with respect to this Order to Cease and Desist (“Order”).
24 CALUMET admits the jurisdiction of the Arizona Corporation Commission (“Commission”);
25 admits the Findings of Fact and Conclusions of Law contained in the Order; and consents to the
26 entry of this Order by the Commission.

II.

FINDINGS OF FACT

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3 1. CALUMET, whose last known address is 13433 N. 16th Avenue, Phoenix, Arizona,
4 85029, is an active Arizona corporation and has been intermittently licensed as a corporation in
5 Arizona for approximately 8 years. Gareth N. Patton ("Patton") is the founder of this company
6 and was the president of CALUMET through the initial stages of 2000. Jeffery G. Crawford
7 ("Crawford"), was an officer and director of CALUMET through at least 1998. Matthew E.
8 Hunzinger ("Hunzinger") was an agent, officer and director of CALUMET at different periods
9 until approximately 1997.

10 2. The above-referenced officers, directors, and/or agents of CALUMET (i.e. Patton,
11 Crawford and Hunzinger) will collectively be referred to as "Representatives."

12 3. Beginning in 1994, CALUMET'S Representatives, purportedly acting on behalf of
13 CALUMET, engaged in the widespread offer and sale of CALUMET securities. To attract
14 investors, CALUMET'S Representatives alleged that the company's principal asset, an abandoned
15 slag pile located in the Black Hills of South Dakota, contained high concentrations of valuable
16 ores. CALUMET'S Representatives bolstered this claim by referring to a series of "highly
17 encouraging" assay results purportedly obtained from the slag pile. By the close of 1999,
18 CALUMET'S Representatives had sold over 960,000 shares of CALUMET stock to
19 approximately 180 investors, and in doing so had raised at least five hundred and eighty thousand
20 dollars (\$580,000). Despite generating this capital, CALUMET'S slag pile remains unprocessed.

21 4. During the time period stated above, neither CALUMET nor the CALUMET
22 securities were ever registered with the Securities Division.

23 5. In August of 1992, CALUMET was first formed and incorporated in Arizona for the
24 sole purpose of extracting any valuable ore remaining in the South Dakota slag pile. Patton was
25 subsequently named as a director and president of CALUMET.
26

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

6 7. The following year, CALUMET'S Representatives began promoting, offering and
7 selling CALUMET stock to a number of Arizona investors. The Representatives did not disclose
8 to investors that a lawsuit against CALUMET was pending, that the officers of CALUMET had
9 little or no expertise in the mining/reclamation industry, that CALUMET was being assessed
10 rental fees for having its asset situated on Patton's property, or that the officers and directors of
11 CALUMET were drawing deferred salaries from the company.

12 8. CALUMET'S Representatives also failed to inform investors about the risks to their
13 investments, which was exacerbated by the Representatives' failure to provide investors with
14 written information about these investments.

15 9. In their continuing efforts to promote CALUMET to investors, the Representatives
16 claimed that trial assays had been conducted on samples of the slag pile, and that the assay results
17 had indicated that the slag pile would be worth tens of millions of dollars when finally processed.

18 10. Beginning in 1994, the costs of CALUMET shares to investors fluctuated from a low
19 of 25¢ per share to a high of \$5 per share. In conjunction with these sales, CALUMET'S
20 Representatives told investors that their investment funds were being used for, and were essential
21 to, the advancement of the CALUMET operation. In spite of these claims, investment funds were
22 used for the personal expenses of agents, officers and/or directors.

23 11. CALUMET derived only a fractional benefit from the monies raised through the
24 Representatives' sale of CALUMET stock.

25 12. During a shareholder meeting in late 1994, CALUMET'S Representatives told
26 investors that an Arizona mining company, Cyprus Amax Minerals ("Cyprus"), had expressed an

1 interest in processing CALUMET'S slag pile. CALUMET'S Representatives concluded that the
2 reclamation operation on the slag pile would likely be completed in approximately three months.
3 Crawford further announced that CALUMET shares would now cost \$5 per share, but that they
4 would soon be worth \$25 to \$35 per share.

5 13. A Cyprus field geologist did evaluate the CALUMET slag pile and surrounding areas
6 in November of 1994. Following his examination, the geologist issued a report claiming that the
7 size, value and mineral potential of the slag pile and adjacent tailings dumps did not exist as
8 represented. The geologist specifically noted that the slag pile and dumps did not appear to have
9 any value with respect to their mineral contents. The report added that, according to officers
10 Patton and Hunzinger, Cyprus was only invited to consider processing the three tailing dumps on
11 the property (owned by Patton, Hunzinger and Patton's aunt), and was not asked to explore or test
12 other areas.

13 14. On December 4, 1994, Cyprus' Exploration Manager sent Patton a letter concerning
14 the results of his company's evaluation of the three tailings dumps as well as CALUMET'S slag
15 pile. The Exploration Manager informed Patton that there were no significant values in gold or
16 silver in the dumps or the slag pile, and that the tonnage of the pile only contained approximately
17 500 tons of material. The Exploration Manager continued that Cyprus had no interest in
18 processing either the dumps or the slag pile.

19 15. CALUMET'S Representatives did not disclose to investors the evaluations and
20 conclusions made by Cyprus with respect to the slag pile's precious metal content or size, or to
21 Cyprus' lack of interest in pursuing the project.

22 16. At a CALUMET sales presentation in 1996, CALUMET'S Representatives told a
23 prospective investor that recent assay reports on CALUMET'S slag translated into a return of
24 fifteen million dollars (\$15,000,000) for the gold alone, and that significant additional amounts
25 were recoverable for other precious metal extractions. In response to a prospective investor's
26 inquiries about CALUMET'S operations and liabilities, the Representatives continued that, other

1 than one nearly resolved lawsuit, there were no ongoing claims, debts, leases, salaries or other
2 expenses that might affect the value of the CALUMET investment.

3 17. In late 1997, president Patton transported a sample of the slag pile to a milling
4 company in Virginia City, Montana for a trial processing run. The milling company was only
5 able to recover negligible amounts of gold from the sample of CALUMET'S slag. Patton later
6 told shareholders that the poor results were due to faulty milling equipment, and Patton later
7 reported to investors that alternative processing methods would be necessary to extract the
8 precious metals.

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

13 19. During July of 1998, a letter was sent to existing shareholders by CALUMET'S newly
14 appointed treasurer informing them for the first time that the shareholders owed Patton substantial
15 sums for his "loans" to CALUMET, for back salaries relating to his on-going services at
16 CALUMET, and for such other expenditures he purportedly made on behalf of CALUMET.

17 20. To date, CALUMET'S Representatives have offered and sold more than 960,000
18 shares of CALUMET stock to approximately 180 investors. Based on bank records, prior
19 company investor lists, and investor questionnaires, the Representatives have raised at least five
20 hundred and eighty thousand dollars (\$580,000) from such sales. Despite Representatives'
21 representations to the contrary, CALUMET has received little, if any, of these funds. The only
22 known asset currently in the possession of CALUMET remains the unprocessed slag pile located
23 on Patton's property.

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

III.

CONCLUSIONS OF LAW

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3 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
4 Arizona Constitution and the Securities Act.

5 2. CALUMET, through the conduct and representations of its former officers and
6 directors, offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-
7 1801(13), 44-1801(19), and 44-1801(23).

8 3. CALUMET, through the conduct and representations of its former officers and
9 directors, violated A.R.S. §44-1841 by offering and selling securities that were not registered, not
10 the subject of a notice filing, and not exempt from registration.

11 4. CALUMET violated A.R.S. §44-1842 by offering or selling securities while not
12 registered as a dealer within the meaning of A.R.S. §44-1801(9)(b), and was not exempt from
13 such registration.

14 5. CALUMET, through the conduct and representations of its former officers and
15 directors, violated A.R.S. § 44-1991 by offering or selling securities within or from Arizona
16 by (a) employing a device, scheme or artifice to defraud, (b) making untrue statements or
17 misleading omissions of material facts, and/or (c) engaging in transactions, practices, or courses
18 of business which operate or would operate as a fraud or deceit.

19 6. CALUMET'S conduct is grounds for a Cease & Desist Order to be issued pursuant to
20 A.R.S. §44-2032.

21 7. CALUMET'S conduct is grounds for an Order directing CALUMET to take such
22 appropriate affirmative actions as prescribed by the Commission pursuant to A.R.S. §44-2032.

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2 **IV.**
3 **ORDER**

4 THEREFORE, on the basis of these Findings of Fact, Conclusions of Law, and
5 CALUMET'S consent to the entry of this Order, the Commission finds that the following relief is
6 appropriate, in the public interest, and necessary for the protection of investors:

7 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that CALUMET and its agents,
8 employees, directors, shareholders, successors and assigns permanently Cease and Desist from
9 violating the Securities Act in any respect, including the following:

- 10 a) Offering to sell or selling unregistered securities within or from Arizona where no
11 exemption from registration applies;
- 12 b) Offering to sell or selling securities within or from Arizona without prior
13 registration as a dealer and/or salesperson where no exemption from registration
14 applies;
- 15 c) In connection with the offer to sell or sale of securities within or from Arizona,
16 making any untrue statement of material fact, or omitting to state any material
17 fact necessary in order to make the statements made, in the light of the
18 circumstances under which they were made, not misleading;
- 19 d) In connection with the offer to sell or sale of securities within or from Arizona,
20 engaging in any transaction, practice, or course of business which would operate
21 as a fraud or deceit.

22 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that CALUMET and its agents
23 employees, directors, shareholders, successors and assigns cooperate fully with the Securities
24 Division in its ongoing administrative proceedings against the other Respondents named in this
25 action.
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1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that CALUMET formally
2 dissociate itself from the other named Respondents in this action and strictly prohibit any of these
3 named Respondents from holding any position of authority within the corporation including,
4 without limitation, positions as directors, officers, consultants, employees or principal
5 shareholders of CALUMET holding in excess of 5% of the corporation's outstanding stock.

6 IT IS FURTHER ORDERED that should CALUMET violate any of the orders prescribed
7 above, the Securities Division may vacate this consent order and reinstate legal proceedings
8 against CALUMET.

9 IT IS FURTHER ORDERED that this Order shall become effective immediately.

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11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

COMMISSIONER

15 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of
19 Phoenix, this ____ day of _____, 2000.

20 _____
21 BRIAN C. McNEIL
22 Executive Secretary

23 _____
24 DISSENT

25 (JBP)

26 This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval,
ADA Coordinator, voice phone number 602/542-0838, E-mail csandoval@cc.state.az.us.

1 **CONSENT TO ENTRY OF COMMISSION ORDER AND WAIVER OF HEARING**

2 1. Calumet Slag Inc., ("CALUMET"), a duly licensed corporate entity, admits to the
3 jurisdiction of the Commission over the subject matter of this proceeding. CALUMET
4 acknowledges that it has been fully advised of his right to a hearing to present evidence and call
5 witnesses and CALUMET knowingly and voluntarily waives any and all rights to a hearing
6 before the Commission and all other procedures otherwise available under Article 11 of the
7 Securities Act and Title 14 of the Arizona Administrative Code. CALUMET acknowledges that
8 the Order to Cease and Desist and Consent to Same (the "Order") constitutes a valid final order
9 duly rendered by the Commission.
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11 2. CALUMET knowingly and voluntarily waives any right it may have under Article 12
12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
13 resulting from the entry of this Order.
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15 3. CALUMET acknowledges and agrees that this Order is entered into freely and
16 voluntarily and that no promise was made or coercion used to induce the company into entering
17 into this Consent.

18 4. CALUMET acknowledges that it has been represented by counsel in this matter, that
19 CALUMET'S principals has reviewed this Order with CALUMET'S attorney, and that
20 CALUMET understands the terms and conditions contained in the Order.

21 5. CALUMET admits the Findings of Fact and Conclusions of Law contained in this
22 Order. CALUMET agrees that it will not challenge the validity of these Findings and
23 Conclusions in any present or future administrative proceedings before the Commission or
24 before any other State agency in connection with the denial or issuance of licenses or
25 registrations as required to engage in the practice of any business or profession.
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1 6. CALUMET acknowledges that it is the Commission's policy not to permit a
2 respondent to settle an action by consenting to an order that imposes a sanction while denying
3 the allegations in the Notice. CALUMET further understands that the Commission's
4 acceptance of a settlement in this matter is based upon CALUMET'S recognition and
5 compliance with this policy. If CALUMET breaches this agreement, the Commission may
6 move to vacate this Order and restore this case to its active docket. However, nothing in this
7 provision affects CALUMET'S testimonial obligations or CALUMET'S right to take legal
8 positions in other litigation or legal proceedings in which CALUMET is not a party.

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10 7. CALUMET consents to the entry of this Order and agrees to be fully bound by its terms
11 and conditions.

12 8. CALUMET acknowledges that this Order resolves only alleged administrative
13 violations of the Securities Act and that nothing contained in this Order purports to resolve
14 any other issues which may exist between CALUMET and the state of Arizona. Nothing in
15 this Order shall be construed to restrict or preclude any other agency or officer of the State or
16 its subdivisions from initiating other civil or criminal proceedings against CALUMET, now or
17 in the future, that may be related to the matters addressed by this Order. Nothing in this Order
18 shall be construed to restrict the State's right in a future proceeding to bring an action against
19 CALUMET from or related to facts not set forth in this Order.

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21 9. CALUMET acknowledges that it has been informed and understands that the
22 Commission or its designee, at the Commission's sole and exclusive discretion, may refer to this
23 matter, or any information or evidence gathered or derived in connection with this matter, to any
24 person or entity having appropriate administrative, civil or criminal jurisdiction. In connection
25 with the above, CALUMET acknowledges that no representations regarding the above have
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1 been made to induce the company to enter into this Order, and no promise or representation has
2 been made by the Commission or its designee or staff with regard to any potential criminal
3 liability or immunity from any potential criminal liability.

4 10. CALUMET states that as a part of the settlement reached herein, it will continue to
5 cooperate with the Securities Division ("Division") in connection with this matter including,
6 but not limited to, providing complete and accurate testimony at any hearing in this matter as
7 may be requested by the Division, and cooperating with the Division regarding the allegations
8 in the present matter and any other matters touching thereon.

9 11. CALUMET consents to the requirement that it will dissociate itself from the other
10 named Respondents in this action and will strictly prohibit any of these named Respondents from
11 holding any position of authority within the corporation including, without limitation, positions
12 as directors, officers, consultants, employees or principal shareholders of CALUMET holding in
13 excess of 5% of the corporation's outstanding stock.

14 12. CALUMET consents to promptly adhere to any Division request for current
15 shareholder listings, investor records and/or company financial documents in its possession.

16 13. CALUMET will undertake steps necessary to assure that all of its officers, directors,
17 agents and employees understand and comply with this agreement.

18 14. _____ hereby represents that he is the _____
19 of CALUMET and has been duly authorized to enter into this Order for and on behalf of
20 CALUMET.
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23 CALUMET SLAG, INC.

24
25 By _____
26 Its _____

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SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____,
2000.

NOTARY PUBLIC

My Commission Expires:
