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The OSC has accused two men of insider trading and tipping in a case involving the acquisition of Baffinland Iron Mines

By Drew Hasselback and Barbara Shecter

The two men who launched a controversial bid to acquire Baffinland Iron Mines Corp. are accused of insider tipping and trading by the Ontario Securities Commission.

The OSC claims Jowdat Waheed and Bruce Walter acted contrary to the public interest by using confidential information in their efforts to acquire Baffinland, a junior mining company that is developing the massive Mary River iron ore deposit on Baffin Island in Nunavut Territory.

Baffinland had hired Mr. Waheed in early 2010 to advise the mining exploration company on how to develop the project into an operating iron mine. Mr. Waheed worked on the project from February to April, then abruptly resigned. He and partner Mr. Walter incorporated a company called Nunavut Iron Ore Acquisition Inc. on Aug. 27, 2010. In a high-profile gambit, the duo then used Nunavut to buy a “toehold” of shares in Baffinland on Sept. 9 and launched the hostile bid that put Baffinland in play on Sept. 22.

The OSC’s allegations, which have yet to be proven at a hearing, claim that Mr. Waheed learned several confidential details about Baffinland while he was working with the company, including key information about negotiations the company had under way with ArcelorMittal SA. Mr. Waheed allegedly shared this information with Mr. Walter so they could plan the hostile bid for Baffinland.

In an 18-page document released Monday, the regulator says Mr. Waheed was in a “special relationship” with Baffinland. “Waheed learned of material facts about Baffinland ... from officers and directors of the company and from Baffinland’s documents and records which he reviewed while he was a consultant. Waheed informed third parties of these material facts before the material facts were generally disclosed.”

Nunavut, now called WW Mines Inc., denied the allegations saying the company’s toehold investment was made “lawfully, from a single vendor who was accurately informed.

“The Company strongly believes the allegations made by Staff are completely without merit and will not withstand scrutiny by a Hearing Panel of Commissioners.”

Nunavut Iron’s bid initially faced stiff competition from rival ArcelorMittal. In a bizarre twist, Nunavut Iron ultimately struck a deal with ArcelorMittal a year ago to launch a joint-bid for Baffinland.

“I am very encouraged that they’re investigating,” said Gord McCreary, the former chief executive of Baffinland who resigned from the company’s board of directors in late 2010. Mr. McCreary opposed both the rival bids and the ultimately successful joint bid for Baffinland.

The OSC document describes the strategy the market watchdog believes Mr. Walter used in Nunavut Iron’s bid for Baffinland.

Canada’s largest capital markets regulator says Mr. Walter knew that if the Nunavut Iron bid was successful, Nunavut Iron would then have at least two options: it could sell the Mary River iron ore project to ArcelorMittal; or it could continue Baffinland’s ongoing negotiations to set up the mine as a joint venture with the Europe-based steelmaker.

The tipping allegations refer to emails and other communications between Mr. Waheed and Mr. Walter, which took place while they were allegedly plotting the takeover bid in the summer of 2010. Mr. Waheed allegedly advised Mr. Walter about the status and details of the negotiations between Baffinland and ArcelorMittal, information that had yet to become public.

Among the messages, Mr. Waheed informed Mr. Walter that management of Baffinland and some of its directors favoured a deal with ArcelorMittal, the OSC alleges.

The OSC contends the purchase of Nunavut Iron's toehold position in Baffinland was a strategic move. The shares purchased on Sept. 9 cost 60¢ each — significantly less than Nunavut Iron would later offer in its hostile bid for Baffinland. The OSC alleges that this move was designed to reduce the overall cost of Nunavut Iron's bid.