

May 28, 2016



MEDIA AND PUBLIC-INTEREST BACKGROUNDER

False and misleading allegations by Bench Marks Foundation

It is regrettable, and should be unacceptable to those who claim to respect truth and honesty, that certain events pertaining to the business career and early life of **Ivanhoe Capital's founder and chairman Robert Friedland** are continuing to be misrepresented to public audiences. In some cases, such misrepresentations may be inadvertent; but in other cases the misrepresentations appear to be deliberate and calculated.

A “media statement” issued by Bench Marks Foundation, of Johannesburg, South Africa, on May 25, 2016, does not honour the truth on a number of counts, resorting instead to disinformation tactics – including ignoring highly relevant, legally established and broadly accepted facts. Such tactics suggest that Bench Marks, in pursuing its activist agenda, did intend to mislead the public and professional media and thereby influence their opinions and actions.

Before publishing its statement, Bench Marks made no attempt to check the veracity of its own allegations with Ivanhoe Capital (or, evidently, with any objective information source). The misleading statement by Bench Marks suggests that it also did not conduct basic fact checking, which would have revealed that it could not confirm the disputed and disproven accusations and misrepresentations made previously by its “sister” NGOs, among others. Bench Marks nonetheless chose to proceed to endorse, recycle, co-opt and irresponsibly republish unfounded information directed at a general public audience.

The withholding of essential facts and denigration, including through unsupportable exaggerations, name-calling, defamatory allegations and other misrepresentations, is further indication that Bench Marks apparently does not want the public and media to be accurately informed. Such tactics are an abdication of the obligations that are inherent in Bench Marks’ self-proclaimed role as an “ethical” monitor of the business practices of multinational corporations.

1. The claim that the former DiamondWorks company and its Sierra Leone mines were owned/controlled by Robert Friedland is not true.

Following are some relevant facts, which have been on the public information record for 19 years (since April 24, 1997):

- Mr. Friedland never had any involvement in the management or direction of DiamondWorks. His only interest in DiamondWorks was as a very minor shareholder; he owned less than three percent of its stock – which represented a tiny fraction of his investment portfolio.
- Mr. Friedland had no connection, directly or indirectly, intellectually or financially, with Executive Outcomes. He supported neither its business nor its credo.

- Mr. Friedland did not maintain any form of ongoing business association with those who did assist Executive Outcomes on military-service contracts.
- In 1996, Mr. (Robert) Friedland did refer an unsolicited business opportunity in Africa to his brother, Eric, who was chairman of DiamondWorks. The opportunity had been proposed to Mr. (Robert) Friedland through a telephone call from a prominent South African mining executive; there was no mention of Executive Outcomes during the telephone call. After reviewing the opportunity, Mr. (Robert) Friedland referred it to his brother, Eric, via a telephone call.
- The Globe and Mail, a Canadian national newspaper, reported on August 1, 1997, that “Robert Friedland...has only a small equity interest in the company (DiamondWorks). But according to the documents obtained by The Globe, it is Mr. Buckingham, and not Mr. Friedland, who is calling the shots at DiamondWorks.”

These facts help to demonstrate 1) the bogus premise for the personal attack on Mr. Friedland by Bench Marks; 2) the fiction of the Bench Marks claim of links between Mr. Friedland and the conduct of military mercenaries; and 3) the deception of Bench Marks’ defamatory insinuation of an association between the Platreef Project and reported attacks on community activists (also see note #4, page 5).

2. The claim that Mr. Friedland tried to avoid accountability for events associated with the failure of the former Summitville gold mine in Colorado, USA, is not true.

Bench Marks knows, but failed to acknowledge in its statement, that evidence has shown that Mr. Friedland did not “move both his assets and himself out of the United States” in an attempt to avoid his responsibilities. This is another example of Bench Marks wilfully recycling 19-year-old falsehoods – which on this occasion originated with a notorious anti-mining activist and propagandist.

Benchmarks knows, but failed to acknowledge, that in 1996 the U.S. Government did gain a temporary freeze, and then attempted to seize, a major financial asset of Mr. Friedland’s in Canada.

Benchmarks knows, but completely avoided any mention of the fact, that the attempted asset seizure led to an extensive hearing in Canada’s Ontario Court of Justice in 1996. That hearing was the only occasion on which the U.S. Government’s Summitville-related allegations against Mr. Friedland ever were examined, under oath, in an open, impartial court of law.

Bench Marks also knows, but failed to acknowledge in any way, that the landmark court decision in Canada 1) exonerated Mr. Friedland, 2) rejected the U.S.’s attempted asset seizure and 3) resulted in an extraordinary judicial condemnation of the misconduct by the U.S. Government. (This was despite the fact that even one of Bench Marks’ cited information sources – anti-mining activist Roger Moody [see footnote reference #3 on the Bench Marks statement May 25, 2016] – did note, if misleadingly and incompletely, in a 1997 commentary that the U.S. seizure bid had “failed”.)

Following are some of the key, relevant findings by the Ontario Court of Justice in its decision on November 5, 1996:

- After reviewing all of the evidence, the Canadian court found that Mr. Friedland did not conceal personal assets and did not leave the United States after the closure of the Summitville Mine to avoid responsibility, as the United States Government had alleged. The court's Mr. Justice Robert Sharpe said in his decision: "The insinuation of the United States that Mr. Friedland has arranged his affairs to avoid his legal obligations is, in my view, totally unsupported by the evidence." Mr. Friedland, who was born in the U.S., became a resident of Canada five years before the Summitville mine opened.
- Judge Sharpe also added: "Mr. Friedland's wide range of business activity has meant that he travels extensively and that the focus of his business interests now lies in Asia. He has moved from North America. As might be expected of a successful international entrepreneur, he moves his assets according to the opportunities and ventures that attract him. In all of this, however, there is simply no evidence before me, nor was there any evidence, in my view, available to the United States, to suggest that he has disposed of property, moved or dealt with assets so as to avoid or evade his creditors. The United States presented that as a fact to (Judge Nottingham, in Federal District Court in Denver, Colorado, in May 1996) and I find that that was a material misrepresentation of the facts." The U.S. Government accepted the court's decision.
- In their settlement agreement with Mr. Friedland in December 2000, the United States federal government and Colorado State government in effect tacitly affirmed Judge Sharpe's findings through their formal acknowledgement that Mr. Friedland had resigned his positions with Galactic Resources in 1990, which had held a controlling interest in the Summitville Mine, "for a variety of business-related reasons".
- Key information that the U.S. Government withheld from courts in the U.S. and Canada proved that Mr. Friedland was prepared to voluntarily participate in remedial actions to address environmental concerns after the closure of the Summitville Mine in 1992 and that he had initiated discussions with the EPA on a possible settlement.
- Judge Sharpe penalized the U.S. for its reprehensible misconduct in withholding and misrepresenting vital factual evidence to paint a "misleading picture" of Mr. Friedland's role with the mine and its operations. As punishment, Judge Sharpe ordered the U.S. Government to compensate Mr. Friedland on the basis of his "solicitor-and-client" costs – which subsequently were settled through a U.S. payment to Mr. Friedland of a total of US\$1.25 million in 2001.
- Also in 2001, Mr. Friedland made a voluntary, lump-sum contribution of US\$20.28 million in full satisfaction of his undertaking as part of the voluntary settlement reached with the U.S. and Colorado governments in December 2000. The contribution was dedicated to restoration work in the Alamosa River watershed.
- In 1993, an independent engineering review of Summitville issues reported that problems in fact were "the manifestation of a myriad of decisions, actions, rules and procedures that were not unilaterally determined by any one party". Mr. Friedland's offers to initiate a voluntary settlement were ignored by the U.S. Government.

Seven years later, in their settlement with Mr. Friedland, the U.S. and Colorado governments also agreed that after 100 years of mining and construction activity in the Summitville area, “no one person or entity is solely responsible for the environmental problems or subsequent cleanup at the site”.

- After his voluntary settlement in 2000 with the U.S. and Colorado governments, Mr. Friedland continued with third-party lawsuits against other companies that were involved with the design and construction of the Summitville Mine, and various insurers. By 2014, Mr. Friedland had recovered a total of US\$25.25 million from responsible parties and insurers – further establishing that he was not solely responsible for the environmental problems or the resulting clean-up costs at Summitville.

Additional facts about Mr. Friedland’s role with the Summitville Mine are available at:

- www.ivanhoecapital.com/pdf/Summitville-Mine-fact-file-&-settlement-agreement.pdf
- www.ivanhoecapital.com/pdf/Ontario-Court-judgment-re-US&Summitville-November-1996.pdf

3. The blanket endorsement by Bench Marks Foundation of the profoundly flawed, 16-year-old report by U.K.-based activist Roger Moody, titled *Grave Diggers: A Report on Mining in Burma*, reveals a partisan bias and a further embrace of known, long-standing falsehoods.

Following are excerpts from a public statement issued by the *original* Ivanhoe Mines on September 19, 2000, in response to the extensive and fundamental failures of objective enquiry and fair, balanced and accurate reporting in the Moody report and associated documents.

The statement, by Daniel Kunz, former President of the *original* Ivanhoe Mines, was headlined:

IVANHOE MINES CONDEMN BLATANT FALSEHOODS, BIAS AND MISREPRESENTATIONS IN ACTIVISTS' MINING DOCUMENTS

The statement noted that Mr. Moody, the report's author, had no recognized credentials as an independent, objective authority on mining and had no first-hand knowledge of the operation of the Ivanhoe Mines joint-venture Monywa Copper Project in Myanmar. Mr. Moody admitted that his “prime aim” was to provide ammunition for “pro-Burma activists” in a campaign he wanted to incite against mining in Myanmar. The Moody report was sponsored by a consortium that included activist NGOs Canadian Friends of Burma and MiningWatch Canada, which issued the flawed report in Canada on September 18, 2000.

In response, Ivanhoe Mines publicly detailed serious falsehoods, as well as contradictory, bizarre and defamatory allegations, that were contained in the Moody report and associated documents. The documents cited alleged events that, in truth, never happened. They had the wrong companies in the wrong places in the wrong deals. Where there were no facts to support their authors' agendas, the documents resorted to suggestion and innuendo in their determination to disparage companies with legitimate investments in Myanmar.

The statement issued by Ivanhoe Mines in September 2000 added: “The purpose of the documents is to try to influence decision makers in Canada and to try to hoodwink media. It is political advocacy gone mad.”

One document claimed evidence of serious human rights violations, serious groundwater pollution and deplorable safety standards at Monywa. The Ivanhoe Mines statement termed the claim a double falsehood on all three counts, noting that no such failures had occurred at, or been caused by, the Ivanhoe project, and that the actual report offered no tangible evidence to support the allegations.

The Ivanhoe statement said: *“As a principal sponsor of the report, Canadian Friends of Burma rejected offers by Ivanhoe Mines and Ivanhoe Capital to assist with fact checking on the contents of the report, prior to its release. Ivanhoe offered its assistance in an unsuccessful attempt to avoid the possibility of damaging errors being distributed to unsuspecting readers. To the company’s knowledge, no attempt ever was made to check the many false references in the report.*

“The documents falsely claim that environmental standards are “absent” in Myanmar. In fact, the Ivanhoe Mines joint venture in Myanmar has adopted an internationally recognized standard of best practice environmental management and of employee safety and health. Earlier this year (2000), the Myanmar mine recorded the notable achievement of two million hours worked by its 540 employees without a disabling injury. The safety program and measurement techniques employ internationally recognized procedures. This achievement, in part, gives lie to the Moody report’s false and unsubstantiated claims of “deplorable safety standards” at the Monywa project. The Monywa project is committed to obtaining certification to international standard ISO 14001. The mining operation’s performance in meeting its objectives is subject to annual review by independent experts, whose reports will be made public.”

More extensive details on the Monywa Copper Project are available at:

- www.turquoisehill.com/i/pdf/Monywa_Fact_File_December_2012.pdf
- www.turquoisehill.com/s/news_releases.asp?ReportID=375243

4. **The Bench Marks organization – and at least one of its “sister” activist NGOs, Mining Watch Canada – are continuing their attempts to dupe the public and media with concocted allegations and insinuations of an association between Mr. Friedland, the Platreef Project and/or Ivanhoe Mines/Ivanplats and a reported attack on a community activist in Limpopo Province last month. Such claims are dishonest fiction and beneath contempt. They remain a manipulative ploy, devoid of evidence, apparently cynically intended to disrupt progress on the Platreef Project.**

Faith-based advocacy activism is no excuse for deceptive excesses that include the abuse of truth and gratuitous smears.

Facts are the essence of truth – which is a universal foundation stone of any open and meaningful discussion in a democratic society.

Facts should be at the centre of discussions about commitments and obligations that are being secured to ensure rightful benefits for individuals, families and communities that will be generated by the Platreef Mine now under development. The Platreef Project is owned by Ivanplats (Pty.) Ltd., which is 64%-owned by Ivanhoe Mines. A 26% interest is held by Ivanplats' broad-based, black economic empowerment partners, which include 20 local host communities with a total of approximately 150,000 people, historically-disadvantaged project employees and local entrepreneurs. A Japanese consortium of ITOCHU Corporation and its affiliate, ITC Platinum, plus Japan Oil, Gas and Metals National Corporation and JGC Corporation, owns a 10% interest in Ivanplats.

IVANHOE CAPITAL CORPORATION

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