

DNI Metals Update - Cassation (Supreme Court of Madagascar) Finds Mr. Steven Goertz Guilty of Fraud and of Forgery of Official Government Documents

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[DNI Metals Inc.](#) (OTC: SMNKF) ("DNI" or the "Company").

Decision of Madagascar Supreme Court

On February 15, 2022, the Cassation (Supreme Court, "the Court") of Madagascar held a trial (see Background to the case below). Neither Mr. Goertz nor his lawyers attended the trial.

On March 15, 2022, the Court rendered its decision, which cannot be appealed according to our counsel in Madagascar. The Court upheld the original sentencing of two years in prison for Mr. Goertz and he will be banned from staying in Madagascar for a period of three years after he has served his sentence. The Court also ordered Mr. Goertz to pay DNI 65,000,000 Ariary (sixty five million Ariary) in damages. All charges against Mr. Weir, that Mr. Goertz had brought forward to the police in Madagascar, were dropped in their entirety.

Mr. Goertz had already been removed as Gerant of DNIM Holding No.1 Sarl and DNI has applied to remove him as Gerant of DNI Metals Madagascar Sarl. Now that Mr. Goertz has been criminally convicted, he cannot serve as a Gerant of any company in Madagascar. His continued claims of having control of the DNI assets are baseless. DNI has also filed a civil lawsuit against Mr. Goertz for U\$2.5 Million in Madagascar representing some of the losses that he has caused DNI and its shareholders.

Background

Under Malagasy law, if a person becomes aware of a crime it must be reported to the police. Therefore, Mr. Daniel Weir, Chairman of [DNI Metals Inc.](#) reported the fraud to the police. The fraud being, that the former DNI Madagascar team led, by Mr. Steven Goertz, had apparently forged government documents and misappropriated funds.

On February 19, 2020, a trial was held. On March 5, 2020, the judgement and sentencing were released to us. The court found Mr. Goertz guilty of fraud and forgery of official government documents. He was sentenced to two years in prison and Mr. Goertz will be banned from staying in Madagascar for a period of three years after he has served his sentence. The same court also ordered Mr. Goertz to pay DNI, 60,000,000 Ariary (sixty million Ariary) in damages.

On October 6, 2020, an opposition trial was held for Mr. Goertz. Since Mr. Goertz nor his lawyers attended the original trial in February of 2020, he was entitled to oppose the length of the sentencing but not the fraud and forgery charges themselves. The court upheld the original sentencing of two years in prison and Mr. Goertz will be banned from staying in Madagascar for a period of three years after he has served his sentence. The same court also ordered Mr. Goertz to pay DNI, 60,000,000 Ariary (sixty million Ariary) in damages, plus court costs of 5,000,000 Ariary (five million Ariary)

On February 12, 2021, an appeal trial was held. The court upheld the original sentencing of two years in prison and Mr. Goertz will be banned from staying in Madagascar for a period of three years after he has served his sentence. The same court also ordered Mr. Goertz to pay DNI, 65,000,000 Ariary (sixty million Ariary) in damages.

Status of Mining Permits in Madagascar

According to Mining Review Africa, in an article dated November 4, 2020;

"Since assuming office in January 2019, President Andry Rajoelina has made reform of the mining sector one of his top priorities, yet his approach has drawn criticism from industry players."

"Approval of a new mining code by the government council on 20 November 2019, after no prior consultation with stakeholders, sent shock waves through the industry."

"Although the provisions were rejected at a subsequent cabinet meeting on 27 November 2019, the government's approach served to fuel distrust between Rajoelina's administration and mining operators."

"At the time, there were mounting frustrations within the government that big asset operators such as Rio Tinto, which had accumulated significant debts at QIT Madagascar Minerals, were under-performing."

"Pressure from the World Bank and the Chamber of Mines eventually led the Ministry of Mines to initiate a proper consultation process involving all stakeholders."

"The COVID-19 pandemic has stalled this review process."

The government of Madagascar continues to have the issuing of all licenses, permits and title cards on hold as they are still considering changes to some of the mining laws.

On August 15, 2021, a new Mines Minister was appointed in Madagascar, he then resigned 4 days later on August 19, 2021. The Prime Minister of Madagascar temporarily held the position of Mines Minister.

On March 16, 2022, a new Mines Minister, Oliver Rakotomalala, was appointed. DNI has congratulated Mr. Rakotomalala on his appointment. Mr. Rakotomalala understands the Canadian public markets as he previously worked for a company that was listed on the TSX Venture Exchange.

Cougar Metals

On September 24, 2018, a Settlement Agreement (the "Agreement") was reached between DNI and [Cougar Metals NL](#) ("Cougar") with respect to the DNI Vohitsara Property in Madagascar.

On July 23, 2019, DNI issued Cougar a default notice claiming that Cougar had breached the non-disparagement provision in the Agreement. Cougar requested an arbitration to dispute the default. A hearing was held on November 18, 2019, in Toronto.

On December 2, 2019, a decision was handed down by the arbitrator in which it was decided that;

1. Cougar had breached the non-disparagement provisions of the Agreement;
2. The DNI notice of breach was justified and the Cougar claim was dismissed;
3. DNI was unable to prove that it had incurred financial damages as a result of the Cougar breach;
4. DNI's request for a set off against, or cancellation of, the payment to be made by DNI to Cougar under the Agreement was dismissed; and
5. The original payment that was due to Cougar on July 25, 2019, was now due two days after the date of the decision and the regular payment schedule under the Agreement was to commence thereafter.

However, on November 5, 2019 (prior to the arbitrator decision dated December 2nd) DNI was forced to issue Cougar a second default notice for continued failure to observe the non-disparagement and

confidentiality obligations of the Agreement. As applicable with the first default notice, the Agreement provides that DNI is entitled to suspend payment of the balance of the amount owing under the Agreement pending determination of any dispute regarding Cougar's breach by an arbitrator.

On December 10, 2019, DNI was forced to issue Cougar a third default notice, a fourth notice was issued to Cougar on May 4, 2020, a fifth and sixth notice on March 16, 2021, a seventh notice on July 30, 2021, an eighth notice on October 18, 2021, and a ninth notice was issued on March 28, 2022.

Again, under the Agreement, DNI is entitled to suspend payment of the balance of the amount owing under the Agreement pending determination of any dispute regarding Cougar's breach by an arbitrator.

According to a news Bulletin from the ASX, dated Oct 5, 2021, [Cougar Metals NL](#) ('CGM') was removed from the Official List from the commencement of trading on Tuesday, 5 October 2021 in accordance with Listing Rule 17.12. The securities of CGM have been suspended from trading for a continuous period of 2 years. The removal has been undertaken in accordance with the policy set out in section 3.4 of ASX Listing Rules Guidance Note 33 Removal of Entities from the ASX Official List.

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