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The Market Abuse Team
Financial Services Authority

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Evidence of Market Abuse by Nighthawk Energy Plc

Dear Sir or Madam,

I writing on my own behalf, as a shareholder in Nighthawk Energy Plc, quoted on London's AiM market ("Nighthawk"), and as a Director of ShareSoc, representing other shareholders, to report a case of market abuse by Nighthawk. This case came to my attention after attending Nighthawk's AGM on 26th October 2011 .

Summary

In summary, Nighthawk ordered shares to be sold into the market at a time when it seems highly likely that the company's management were aware that significant negative price sensitive news was likely and imminent, without informing the market of that news first. That appears to be a misleading course of conduct, in contravention of FSMA s118 and possibly the Criminal Justice Act 1993. Unsuspecting buyers of the shares that Nighthawk sold would most likely have suffered a significant financial loss, as the shares have traded at a lower price ever since the negative news was announced and today stand at a price that is a small fraction of that at which they were sold. I will now detail the evidence leading to my assertions.

Detailed Evidence

1. On 14th October 2010 Nighthawk announced that it had entered into an "Equity Financing Facility" (EFF) with Darwin Strategic Limited. See http://www.investegate.co.uk/Article.aspx?id=201010140700063612U

Salient points from this announcement are:

"...The EFF agreement, which is dated 13 October 2010, provides Nighthawk with a facility which (subject to certain limited restrictions) can be drawn down at any time over the next three years. The timing and amount of any draw down is at the discretion of Nighthawk.

Nighthawk is under no obligation to make a draw down and may make as many draw downs as it wishes, up to the total value of the EFF, by way of issuing subscription notices to Darwin. Following delivery of a subscription notice, Darwin will, subject to certain conditions, subscribe and Nighthawk will allot to Darwin new ordinary shares of 0.25p each in Nighthawk ("Ordinary Shares").

The subscription price for any Ordinary Shares to be subscribed by Darwin under a subscription notice will be at a 5.0% discount to an agreed reference price determined during 5, 10 or 15 trading days following delivery of a subscription notice (the "Pricing Period")…"

2. At Nighthawk's AGM on 26th October 2011, I asked whether Darwin sold shares short upon receipt of a subscription notice. I was told by Nighthawk's management that shares were "sold forward" – effectively the same thing as I understand it, i.e. upon receipt of the notice, Darwin would sell shares into the market (note that the market will not have been specifically informed that such a sale is taking place) and then, once the sale was complete, Nighthawk would issue the shares to Darwin at the discounted price stipulated in the EFF.

3. On 20th October 2010 Nighthawk issued its final results for Y/E 30th June 2010. See http://www.investegate.co.uk/Article.aspx?id=201010200700066617U Of particular relevance to my allegation is this statement concerning the "Revere" oil and gas project:

*"...**Revere***

Revere, the product of the consolidation of the Devon Oilfield, Buchanan and Worden, Xenia fields and the recently acquired Hammond project, is a combined oil waterflood and gas project, covering in excess of 60,000 acres located on and around the Kansas and Missouri State borders.

The oil reservoir is under-pressured and requires water injection to help bring the oil to surface. This is a straightforward process that has been applied successfully for decades on similar oilfields in the USA and elsewhere in the world.

The Xenia gas project was brought on-stream in November 2009 and is an important contributor to revenues with gas production currently in excess of 500,000 cubic feet per day. The 26 kilometre pipeline at Xenia was completed on time and on budget linking to the 50% Nighthawk owned and operated Bourbon County pipeline where product is sold to a subsidiary of General Electric.
A recent Xenia reserve evaluation conducted by Oilfield Production Consultants Limited, showed total net 2P reserves to be 1.4 billion cubic feet over 6,000 acres. The project area since the evaluation has grown to in excess of 15,000 acres.

Oil production is increasing at Devon and Buchanan with over 100 wells on production, a figure growing as more recently drilled wells are put on-line.

New acquisitions such as Hammond and Green Valley are also expected to provide further revenue growth to what is now a substantial low-cost stand-alone project in the Nighthawk portfolio…"

The announcement gives investors no reason to suspect any problems with the Revere project.

4. On 11th November 2010, Nighthawk announced a drawdown under the EFF described at 1. above:
http://www.investegate.co.uk/Article.aspx?id=201011110700069912V

"...Under the terms of the EFF agreement the Company has allotted, conditional on admission to trading on AIM, 28,463,600 new ordinary shares of 0.25p each to Darwin (the "New Nighthawk Shares"). The New Nighthawk Shares have been issued at a price of approximately 11.51p per share and rank pari passu in all respects with the existing ordinary shares of 0.25p each in Nighthawk…."

Whilst the announcement does not state when the subscription notice was issued by Nighthawk to Darwin, we do know that it must have been given some time after 14th October, when the EFF was announced and before 6th November (5 days before the drawdown announcement, to allow the minimum "pricing period" defined in the EFF to elapse).

5. On 29th November 2010, Nighthawk announced the result of a strategic review: http://www.investegate.co.uk/Article.aspx?id=201011290700089216W which stated:

"Revere

To date, approximately US$39 million has been invested by the Company in the Revere projects in Kansas and Missouri against a revenue contribution of just US$1.5 million, net to Nighthawk; this represents a revenue return on capital of approximately 4%, significantly below an acceptable level.

The purpose behind the investment in Revere was to have a project that could deliver near to medium term operational cash flow to help fund the development of Jolly Ranch. However, it is apparent that the waterflood process, the effect of which is difficult to predict, is not working as efficiently as had been hoped. The planned work programme for 2011 would have required a change in operational strategy and significant further capital investment from Nighthawk without any guarantee of future revenue growth. Furthermore, gas production has now been shut in across all Revere projects, including Xenia, due to the continuing and expected long term depressed prices for US natural gas.

The sale of Nighthawk's working interest in Revere has been considered by the Company. However, it was decided that the capital and time required to make the project a saleable proposition, plus the lack of prospective buyers in the region, would have meant a sale would not have been achievable within a reasonable timescale to meet shareholders' best interests.

Therefore the Board has decided to assign the Company's interests in the Revere projects to the operator, Running Foxes Petroleum Inc., with effect from 1 January 2011. Thereafter, Nighthawk will no longer have any future capital liability on the project. In return for the assignment, Nighthawk will receive a 5% over-riding royalty from production and 25% of any sale proceeds, within the next two years, if the operator sells any part of the property to a third party. Nighthawk has also retained an option to re-enter the assets at its own choosing for which Nighthawk would have to pay historic costs attributable from the reassignment date plus a 20% uplift."

Investors could infer from this announcement that the Company would take a significant writedown on the Revere assets and on other assets. As a result, the share price immediately fell from 13.25p on 26th November to close at 10.5p on 29th November. The shares have never traded above 13p again (recovering briefly once to 12.75p on 7th January 2011). They stand at 2.9p today.

Writedowns totalling US$63.6m were disclosed in Nighthawk's interim results of 29th March 2011 as a result of the actions from the strategic review.

6. I find it highly implausible that Nighthawk's management were unaware of the likelihood of significant writedowns when the drawdown announced on 11th November was made. The factors detailed in the strategic review announcement (low revenues, low gas prices, poor waterflood results) had been known to management for some considerable time. Note that the last of these (poor waterflood results) had never clearly been disclosed to the market previously and is contrary to the suggestion of a "straightforward process" made in the final results announcement of 20th October. Note also that waterflooding had been underway for over a year at that time (to the best of my knowledge), so management should have been in possession of detailed results for quite some time. The immediate share price fall on the announcement of the strategic review results confirms that the market was unaware of this. Hence I believe market abuse was committed because Nighthawk's management were in possession of non-public price sensitive information at a time they instructed shares to be sold.

I request a thorough investigation of this matter.

Yours faithfully,

Mark Bentley
Director, UK Individual Shareholders Society