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Ontario Securities Commission
20 Queen Street West,
Suite 1900, Box 55
Toronto, Ontario, M5H 3S8

August 20, 2012

Dear Sirs/Mesdames:

Consultation Paper 25-401: Potential Regulation of Proxy Advisory Firms

Thank you for the opportunity to provide comments on Consultation Paper 25-401. We hope that you find our comments thoughtful and relevant.

I have been a corporate lawyer for over sixteen years for several reporting issuers, including Pacific Rubiales Energy Corp., PetroMagdalena Energy Corp., Gran Colombia Gold Corp. (“Gran Colombia”) and Pacific Coal Resources Ltd., and in that time have had extensive experience with proxy advisory firms such as Glass, Lewis & Co (“Glass Lewis”), Institutional Shareholder Services Inc. (“ISS”) and Hermes Equity Ownership Services. During my career, I have seen many of these firms develop into leading proxy advisors with substantial influence over shareholder voting and, as a result, the actions of reporting issuers.

My experiences with proxy advisory firms have led me to consider their role to have evolved into being a “quasi-regulator” and question their ability to act in that role. I have also found there to be a glaring need to establish a two-way dialogue between reporting issuers and these firms. These issues, amongst others, have led me to become a proponent for the regulation of proxy advisory firms.

1. Proxy Advisor Role as a “Quasi-Regulator”

As the General Counsel for several reporting issuers, I have had to deal with many issues raised by ISS and Glass Lewis, particularly with respect to corporate governance compliance. As chief legal counsel to reporting issuers that are both on the Toronto Stock Exchange and TSX Venture Exchange, compliance with stock exchange and security commission standards is at the forefront of my responsibilities; however, proxy advisory firms have consistently held the belief that their recommendations and policies are “ahead of the law”. This has led reporting issuers to consider “over-compliance” with applicable securities laws in order to garner the approval of these proxy advisory firms. This is problematic because proxy advisory firms provide little or no disclosure with respect to how their policy recommendations were arrived at. Whereas securities law faces the scrutiny of the legislative and consultative process, there is a lack of transparency and accountability by firms, such as Glass Lewis, in the formation of proxy advisory guidelines. Additionally, all reporting issuers understand and agree that compliance has a real monetary cost to it; by its very nature, “over-compliance” has an even greater cost, one that not all reporting issuers can easily bear, but sometimes need to in order to curry favourable recommendations from the advisory firms.

In essence, it appears that in many ways these proxy advisory firms have usurped the role of securities regulators, but with no discernible checks and balances governing their practices. Given that subscribers often give proxy advisors blank authorization to vote their shares according to the advisors' recommendations, and that many other non-subscribers also follow their recommendations, this represents a significant danger to boards and reporting issuers that strictly follow the law but not the proxy advisory firms.

2. Inability to Analyze Complex Deal Metrics

Compliance with proxy advisory firms has also been challenging due to the misinterpretation of deal metrics, lack of rational substantiation for their recommendations and the inconsistency in opinions between proxy advisors. This was evident during the merger between Medoro Resources Ltd. ("Medoro") and Gran Colombia.

The merger between Medoro and Gran Colombia was seen by ISS as beneficial to the shareholders of both companies. However, Glass Lewis was not in favour of the merger and issued conclusions that were simply at odds with each other in two separate reports (see Schedule "A"). The Glass Lewis analyst stated in one report that Medoro shareholders were offered too little consideration and, in another report, the same analyst stated Gran Colombia shareholders were being offered too much consideration, indicating at best that the analysis was counter-intuitive or at worst fundamentally flawed. It is quite troubling that a proxy advisory firm could publish two separate recommendations in respect to the same transaction with opposite conclusions.

Additionally, reporting issuers are now often faced with the need to engage proxy solicitation agents in order to assist in their dialogue with proxy advisory firms. The end result is that more attention from management is diverted away from ordinary course business matters and substantial capital is expended dealing with these quasi-regulators – a result that, in my view, is not conducive to increasing shareholder value.

If the goal of proxy advisory firms is to effect progressive change to securities law, then they should pursue the same avenues available to other market participants, or should be regulated in their attempts to effect change.

3. Lack of Dialogue

Another challenge in dealing with proxy advisory firms, in particular with Glass Lewis, is the lack of dialogue with reporting issuers.

Reporting issuers are not able to speak with Glass Lewis directly. This inevitably hinders the ability for both sides to communicate with one another and ask questions in order to gain a better understanding of their respective positions. The lack of discussion allows proxy advisors to act as the sole authority on corporate governance matters, leading to the promotion of a "check the box" type of corporate governance standard.

4. Potential Conflict of Interests

What is equally troubling is that proxy advisory firms are open to numerous potential conflicts of interest. Under the guise of advancing the corporate governance agenda of institutional investors, these firms profit from promoting guidelines that seem to change on a yearly basis. Moreover, it is worth noting that Glass Lewis is beneficially owned by the Ontario Teachers' Pension Plan, a major institutional investor in Ontario with a long track record of pursuing various initiatives to change the corporate governance

landscape of this province's securities legislation, but which, despite its size, is in fact just one of many corporate governance voices, and one that has gained undue weight because of Glass Lewis' position.

5. Recommendations

To improve upon how proxy advisory firms function in the market, new regulations should be adopted to address some of the foregoing concerns. Any new regulations should focus on the need for improved dialogue between proxy advisory firms and reporting issuers. Mandated consultation to establish a greater understanding of both parties' positions should occur prior to proxy advisory firms issuing their recommendations, allowing for these market participants to have the opportunity to revise their stances with sufficient background.

Regulation should include implementing uniform standards that proxy advisory firms are required to follow, in line with applicable securities laws. Creating uniform standards will help foster confidence, equality and stability in the practices of proxy advisory firms while ensuring the integrity of the Canadian capital markets.

6. Conclusion

It is for the aforementioned reasons that I support the regulation of proxy advisory firms, particularly through the implementation of mandatory consultation periods and defined, established standards. If left unregulated, these firms may become more important to reporting issuers on corporate governance issues, because of the votes that they potentially control, than the security regulators themselves. I am a strong supporter of securities regulation; however, I am also a believer in the legislative process, and it is my firm belief that the proxy advisory firms, as they are currently operated, are performing an end-run around that process.

Thank you again for this opportunity to comment on Consultation Paper 25-401. Should you have any questions, please contact me at 416-362-7735 ext. 223.

Yours sincerely,



Peter Volk
General Counsel

c.

Miguel de la Campa, *Pacific Rubiales Energy Corp.*, Co-Chairman

SCHEDULE 'A'



NEWS RELEASE

GRAN COLOMBIA AND MEDORO CONFIDENT OF VALUE-CREATION POTENTIAL OF THE PROPOSED MERGER DESPITE GLASS LEWIS RECOMMENDATION

TORONTO, CANADA, Monday May 30, 2011 – Gran Colombia Gold Corp. (TSX: GCM) and Medoro Resources Ltd. (TSX: MRS) (together, the “**Companies**”) have re-affirmed their strong commitment to completing a friendly combination of the Companies, and have rejected the recommendations contained in two separate reports from Glass, Lewis & Co., LLC (“**Glass Lewis**”), a professional services firm that provides proxy research and voting recommendations to institutional investors. The Glass Lewis reports are in contrast to the positive recommendation of Institutional Shareholder Services Inc. (“**ISS**”).

The Companies believe the approach used by Glass Lewis to analyze the combination is fundamentally flawed in several respects and does not adequately assess the rationale of the transaction. In its analysis, Glass Lewis failed to address several key factors, including: (1) the structure of the transaction; (2) the rationale and process of the transaction; and (3) the Colombia-specific considerations. Furthermore, the basis for its recommendations has been founded on erroneous facts.

It is inconceivable that the Glass Lewis analyst who authored the two separate reports came to conclusions totally at odds to each other. The Medoro shareholders are being told that they are being offered too little consideration, while Gran Colombia shareholders are being told that they are offering too much consideration. This analysis is at best counter intuitive and at worst fundamentally flawed. It defies logic to think that the same analyst could publish two separate recommendations in respect of the same transaction with opposite conclusions in terms of the adequacy of the consideration.

In addition, the original Glass Lewis report to Medoro shareholders did not take into consideration or assign value to the warrant component of the offer price. Failing to include the value of the warrants brings the conclusion of the original report’s analysis into serious doubt. The joint circular clearly states that the consideration warrants will be issued under the existing Gran Colombia indenture and that such consideration warrants will be the same warrants currently traded on the Toronto Stock Exchange (under the ticker symbol “GCM.WT”). The fact that this was not properly addressed suggests that Glass Lewis did not fully review the contents of the joint circular and/or did not understand the basic terms of the transaction. Glass Lewis has since revised their reports to take into consideration and assign value to the warrant component of the offer price – however, this omission nonetheless remains *prima facie* evidence that the precise details of the transaction have not been properly reviewed or considered.

The following sets out in greater detail the Companies' position with respect to the transaction:

- 1) **Structure:** The Glass Lewis reports question this transaction as being a true "merger of equals", which suggests that Glass Lewis is unable to properly comprehend this type of transaction. The combination of the Companies is a true "merger of equals". This is clearly demonstrated by the following features: (a) following the transaction, current Gran Colombia shareholders and former Medoro shareholders are anticipated to each own approximately 50% of the combined entity on a fully-diluted basis; (b) the board of the combined company will be composed of all the current directors of Gran Colombia and Medoro; and (c) the management teams of each company will also be combined.

Of particular note, which supports the view that Glass Lewis does not understand the merger of equals concept, the Glass Lewis reports analyze the transaction on the basis of premiums paid. This is not a metric that is used in a merger of equals approach.

- 2) **Rationale and Process:** Glass Lewis' analysis appears one-dimensional and largely overlooks the persuasive rationales for the transaction, including, that the combination of the Companies: (a) provides immediate increased scale, better liquidity and operational synergies; (b) creates Colombia's leading gold producer with a 42% cumulative average growth rate between 2011 and 2016; (c) assembles a team capable of addressing critical issues relating to operating in Colombia; (d) provides a balanced and sustainable project and development pipeline; and (e) positions the Companies well for long-term regional consolidation, amongst several other benefits. Although Glass Lewis refers to some of the benefits in their reports under the heading entitled "Board Rationale", they quickly dismiss these highly positive attributes and instead refer back to one-dimensional arguments. By overlooking these highlights, which are significant catalysts to create value, the Glass Lewis analyst illustrates that he has not properly considered all the factors in his conclusion.

The Glass Lewis report also questions the strategic review process in addressing alternative transactions and states "[...] we fail to see compelling reason for shareholders to believe the proposed acquisition represented the most attractive means by which the Company could address its "desire to expand rapidly".* The Companies followed a standard exhaustive process to reach this combination, which is clearly stated in the joint circular. It is important to note that the merger between Medoro and Gran Colombia was sparked by numerous overtures from substantial, sophisticated, resource-focused investors/shareholders in both Companies, who view this combination as an opportunity to merge two relatively undervalued companies into a stronger entity that will be better able to create lasting and long-term shareholder value.

Mr. Frank Holmes, Chief Executive Officer and Chief Investment Officer of U.S. Global Investors, a shareholder of both Companies, states: "The merger of these two companies represents an opportunity for shareholders to benefit from a re-positioning of the combined entity as the leading gold producer in Colombia. Based on our analysis, this merger should drive sustainable growth in resources, cash flow and production, and based on our analysis, this merger should drive momentum in relative value for the combined company."

- 3) **Colombia-Specific Considerations:** The Glass Lewis reports fail to address the specific leadership capabilities required to build a mining company in Colombia. A considerable part of the rationale for this merger is to create a management and leadership team that can successfully navigate the political and social issues in Colombia.

In Colombia, political, social and environment considerations are as important as asset quality. Other companies with attractive deposits operating in Colombia have failed or incurred material costs and/or delays for not addressing these issues. The combined leadership team has the required experience and proven track record to develop these assets and to maximize shareholder value.

ISS, which is Glass Lewis' closest industry peer, recently released a recommendation that they support the transaction and an excerpt from their conclusion illustrates that, unlike Glass Lewis' analysis, ISS has completed a full review and understands the transaction. In its report, ISS stated: "The transaction is structured as a merger of equals. The companies believe the combined company's growth prospects are greater than either could achieve on their own (42% compound annual growth rate in production is expected from 2011 to 2016). The companies expect to realize cost savings from a single human resources and community relations program as well as production synergies and economies of scale from more efficient use of facilities. The combined company will have exposure to two large production and development projects and is expected to be well positioned to take advantage of consolidation opportunities. The combined management team is said to be well-suited to dealing with potential political, social and economic issues in Colombia."*

It is the view of the Companies that, in this case, Glass Lewis grossly overlooked several crucial factors needed to make an informed decision on this merger and that the merits of their recommendation must be questioned.

Given the deficiencies identified in the Glass Lewis reports, the Companies believe that shareholders should ignore these inconsistent reports and vote FOR the arrangement resolution.

A joint management information circular, dated May 6, 2011, has been mailed to applicable securityholders and filed on SEDAR (www.sedar.com). The joint circular contains, among other items, details regarding the arrangement resolution, the terms of the acquisition, the business of Gran Colombia and Medoro and certain historical and pro forma financial information relating to Gran Colombia and Medoro.

Securityholders who require assistance voting their proxy should contact Kingsdale Shareholder Services Inc., the Companies' proxy solicitation and information agent, by: (i) telephone toll-free in North America at 1-888-518-1563 or 416-867-2272 outside of North America; or (ii) e-mail to contactus@kingsdaleshareholder.com.

*Permission to quote from either the Glass Lewis Reports or the ISS Report was neither sought nor obtained.

About Gran Colombia Gold Corp.

Gran Colombia is a Canadian-based gold and silver exploration and development company focused on acquiring, developing and operating properties of merit in Colombia. Gran Colombia holds 95% of the former Frontino Gold Mines Ltd. gold and silver assets, including the largest underground gold and silver mining operation in Colombia. It also owns four more exploration projects in Colombia for total exploration acreage of approximately 21,400 hectares. Gran Colombia is committed to implementing its exploration and development strategy with a comprehensive environment, safety and community program, meeting international standards of best practice.

Additional information on Gran Colombia can be found on its website at www.grancolombiagold.com and by reviewing its profile on SEDAR at www.sedar.com.

About Medoro Resources Ltd.

Medoro is a gold exploration, development and mining company with its primary focus being the development of a large-scale, open-pit mine at Marmato in Colombia. Medoro also has a 5% interest in the Gran Colombia properties in Colombia with an option to increase its interest to 50%. Medoro also holds a 100% interest in the Lo Increible 4A and 4B concessions in Venezuela, as well as interests in gold exploration properties in Mali.

Additional information on Medoro can be found on its website at www.medororesources.com and by reviewing its profile on SEDAR at www.sedar.com.

For further information:

Gran Colombia

Belinda Labatte
Investor Relations
(647) 436-2152

Medoro

Robert Doyle
Director
(416) 603-4653

Cautionary Statement on Forward-looking Information

This news release contains "forward-looking information", which may include, but is not limited to, statements with respect to the future financial or operating performance of Medoro, Gran Colombia and their respective projects. Often, but not always, forward-looking statements can be identified by the use of words such as "plans", "expects", "is expected", "budget", "scheduled", "estimates", "forecasts", "intends", "anticipates", or "believes" or variations (including negative variations) of such words and phrases, or state that certain actions, events or results "may", "could", "would", "might" or "will" be taken, occur or be achieved. Forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of Medoro and Gran Colombia to be materially different from any future results, performance or achievements expressed or

implied by the forward-looking statements. Forward-looking statements contained herein are made as of the date of this press release based on current expectations and beliefs and Medoro and Gran Colombia disclaim, other than as required by law, any obligation to update any forward-looking statements whether as a result of new information, results, future events, circumstances, or if management's estimates or opinions should change, or otherwise. There can be no assurance that forward-looking statements will prove to be accurate, as actual results and future events could differ materially from those anticipated in such statements. Accordingly, the reader is cautioned not to place undue reliance on forward-looking statements.