

2002 BCSECCOM 526

Settlement Agreement

Summit Aurum Financial Group Inc.

Securities Act, RSBC 1996, c. 418

[para 1]

The following settlement of issues has been reached between Summit Aurum Financial Group Inc. (Summit Aurum) and the Executive Director.

Agreed Statement of Facts

[para 2]

As the basis for the undertakings referred to in this settlement, Summit Aurum acknowledges the following facts as correct:

1. Summit Aurum is a Manitoba company, formed, through amalgamation on December 31, 1999, to continue the businesses of Aurum Securities Ltd. and Summit Securities Inc. (collectively, the Amalgamated Companies).
2. The Amalgamated Companies were primarily engaged in trading in, and advising others on, mutual funds, and were registered under the *Securities Act* of Manitoba as broker-dealers (mutual funds). Summit Securities Inc. was also registered under the *Securities Act* of Alberta as a mutual fund dealer.
3. At all material times, Summit Aurum was registered to trade in mutual funds in Manitoba and Alberta only, as a broker-dealer (mutual funds) in Manitoba, and a mutual fund dealer in Alberta. It was not registered under the *Securities Act, RSBC 1996, c. 418* (the Act), in any capacity.
4. Summit Aurum traded mutual funds for at least 169 clients who resided in British Columbia (the British Columbia Clients), and had done so since it acquired the businesses of the Amalgamated Companies on December 31, 1999.

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5. As a result of regulatory enquiries concerning unregistered trading, and after Summit Aurum reported to the British Columbia Securities Commission (the BCSC) that it had breached the registration provisions of the Act, Summit Aurum ceased executing mutual fund trade orders on behalf of the British Columbia Clients on June 30, 2001, except in circumstances where the British Columbia Clients had Pre-Authorized Contribution plans in place with specific mutual funds.
6. By taking instructions for mutual fund trades from the British Columbia Clients, and executing those trades on their behalf, without being registered in British Columbia to do so, or being able to rely upon any exemption from the registration requirements of the Act, Summit Aurum breached section 34(1)(a) of the Act.
7. Between January 1, 2000 and June 30, 2001 (the Relevant Period), Summit Aurum received net trading commissions of about \$30,476.55, as compensation for executing mutual fund trade orders on behalf of the British Columbia Clients.
8. During the Relevant Period, Summit Aurum representatives who were not registered to trade in mutual funds in British Columbia (the Unregistered Representatives) made trades on behalf of the British Columbia Clients. By executing trades on behalf of the British Columbia Clients without being registered to do so in British Columbia, Summit Aurum breached section 34(1)(a) of the Act.
9. Contrary to section 44(1) of the *Securities Rules*, BC Reg. 194/97 (the Rules), Summit Aurum failed to apply written prudent business procedures:
 - (a) to ensure that its employees were registered as required under the Act;
and
 - (b) to ensure that its employees did not open new accounts and conduct transactions on behalf of clients in British Columbia.
10. At the time of the investigation leading to this settlement agreement, Summit Aurum was in the process of integrating its operations with an affiliated mutual fund dealer that has been registered to trade in mutual funds in all Canadian jurisdictions except Nunavut, Newfoundland and Yukon, where applications are still pending (the Affiliated Dealer). The integration involved the transfer of both client assets and representatives.

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Mitigating Factors

[para 3]

The Executive Director has taken into account the following facts as factors mitigating the sanctions that would otherwise have applied in the public interest:

1. Summit Aurum has cooperated fully with the staff of the BCSC to resolve this matter.
2. Upon Summit Aurum becoming aware of its breach of the registration provisions of the Act, it immediately advised the BCSC and suspended all mutual fund trading for the British Columbia Clients, except for the circumstances noted in the previous section.
3. Summit Aurum acted immediately to ensure that the Unregistered Representatives suspended trading for the British Columbia Clients.
4. Summit Aurum has represented that its business operations were discontinued on September 4, 2001. The Unregistered Representatives were transferred to the Affiliated Dealer. All of the Unregistered Representatives who intended to continue to execute trades for the British Columbia Clients were duly registered under the Act as non-resident representatives. The Unregistered Representatives who did not intend to continue to execute trades for the British Columbia Clients have represented that they have had the accounts of those clients transferred to registered mutual fund salespersons in accordance with client instructions.

Undertakings

[para 4]

Summit Aurum undertakes and agrees as follows:

1. Summit Aurum undertakes to comply fully with the Act, the Rules, and any applicable regulations, policies and guidelines, from the date of this agreement, and in so doing, Summit Aurum agrees that it will not say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.
2. Summit Aurum agrees to pay to the BCSC, upon execution of this settlement agreement, the sum of \$55,000.00 of which \$1,000.00 represents the costs of the investigation.

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Waiver

[para 5]

Summit Aurum waives any right it may have, under the Act or otherwise, to a hearing, hearing and review, judicial review or appeal related to, in connection with, or incidental to this agreement.

[para 6]

June 10, 2002.

“S.H. Ellis”

Stephen Ellis, President
Summit Aurum Financial Group Inc. (Signing Authority)

“Tim Pryor”

Tim Pryor, Secretary

“M. Williams”)

Witness Signature)

Michael Williams)

Witness Name (please print))

800 Bay Street, Toronto)

Ontario, M5S 3A9)

Address)

Lawyer)

Occupation)

June 10, 2002.

“Steve Wilson”

Steve Wilson
Executive Director