

# 2004 BCSECCOM 114

## Schedule "A"

### Settlement Agreement

#### Kenneth William Trociuk

#### *Securities Act, RSBC 1996, c. 418*

- ¶ 1 The following settlement of issues has been reached between Kenneth William Trociuk (Trociuk) and the Executive Director.

#### **Agreed Statement of Facts**

- ¶ 2 As the basis for the undertakings and orders referred to in this settlement, Trociuk acknowledges the following facts as correct:

1. 1st Anyox Resources Limited, which was formerly known as Netseers Internet International Corporation (1st Anyox), was incorporated in British Columbia on February 8, 1984, pursuant to the *Company Act*, RSBC 1979, c. 59 (Company Act), and became a reporting issuer under the *Securities Act*, SBC 1985, c. 83 (the Act), on August 29, 1988. The shares of 1st Anyox are currently listed for trading on the TSX Venture Exchange (the TSX).
2. Trociuk was a director of 1st Anyox from December 15, 1993 through to October 8, 2002.
3. Kenrich-Eskay Mining Corp. (Kenrich) was formed by an amalgamation of Kenrich Mining Corporation and Ambergate Explorations Inc. on August 15, 1994. Kenrich Mining Corporation became a reporting issuer under the Act on September 5, 1989, and Ambergate Explorations Inc. became a reporting issuer under the Act on March 11, 1988. The shares of Kenrich are currently listed for trading on the TSX.
4. Trociuk was a director of Kenrich from July 19, 1989 through to October 8, 2002.
5. During the period from January 1, 2001 through to September 30, 2001 (the Relevant Period), Trociuk had direct control over brokerage accounts at nine registrants in British Columbia that were in his name, and indirect control over one other account (collectively, the Accounts).
6. During the period from January 1, 2001 through to September 30, 2001 (the Relevant Period), the Accounts participated in 54 separate trades in the shares of 1st Anyox and Kenrich (collectively, the Companies), in which the

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Accounts were, at the same time, both the buyer and the seller (the Wash Trades).

7. The Wash Trades had the effect of re-aging debits that had accumulated in the Accounts and created a misleading appearance of trading activity.
8. The Wash Trades were contrary to section 57(a) of the Act, and were contrary to the public interest.

### **Mitigating Factors**

- ¶ 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:
- a. Trociuk has satisfied the Executive Director that, apart from delaying the payment of the debits, he did not directly or indirectly profit from the trading activity described in paragraph six; and
  - b. the Wash Trades did not appear to have affected the share price of the Companies.

### **Undertaking**

- ¶ 4 Trociuk undertakes:
1. to pay to the British Columbia Securities Commission the sum of \$15,000, of which \$3,500 represents the costs of the investigation; and
  2. not to say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

### **Order**

- ¶ 5 Trociuk consents to an order by the Executive Director (the Order) that:
1. under section 161(1)(d) of the Act, Trociuk is prohibited from becoming or acting as a director or officer of any reporting issuer for a period ending four years from the date of the Order; and
  2. under section 161(1)(c) of the Act, the exemptions described in sections 44 to 47, 74, 75, 98 or 99 of the Act do not apply to Trociuk for a period ending four years from the date of the Order, except that Trociuk may rely on the exemption in section 45(2)(7) of the Act for trading in one Canadian cash account, one United States cash account, and his current Registered Retirement Savings Plan account, through one registered dealer.

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### Waiver

¶ 6 Trociuk waives any right he 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 settlement.

¶ 7 February 13, 2004

¶ 8 “Kenneth William Trociuk” )  
Kenneth William Trociuk

“H. Roderick Anderson” )  
Witness Signature )  
H. Roderick Anderson )  
Witness Name (please print) )  
607 - 808 Nelson Street )  
Vancouver, BC V6Z 2H2 )  
Address )  
Barrister & Solicitor )  
Occupation )

¶ 9 February 18, 2004

“S. Wilson”

¶ 10 Steve Wilson  
Executive Director