

2004 BCSECCOM 175

Settlement Agreement

Steven Allan Wylie de Jaray

Securities Act, RSBC 1996, c. 418

- ¶ 1 The following settlement of facts and issues has been reached between Steven Allan Wylie de Jaray and the Executive Director.

Agreed Statement of Facts

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

1. de Jaray was a director and officer of AimGlobal Technologies Company Inc. at all times relevant to this settlement agreement, and therefore an insider of AimGlobal.
2. AimGlobal, a reporting issuer, was incorporated under the laws of British Columbia. AimGlobal was listed on the Toronto Stock Exchange and on the American Stock Exchange.
3. On June 25, 1999, de Jaray filed an insider report with the British Columbia Securities Commission stating that he owned or had control over 3,723,066 shares of AimGlobal.

Failure to File Insider Reports

4. Since the June 25, 1999 insider report, de Jaray conducted sales of AimGlobal shares, including sales of shares over which he had control or indirectly owned, for which he failed to file an insider report.
5. On October 24, 2002, de Jaray filed an insider report with the Commission stating, with one entry, that he had disposed of 1,207,466 AimGlobal shares since his last insider report on June 25, 1999.
6. Insider reports showing de Jaray's dispositions of AimGlobal shares or the individual transactions, including dates and prices, in AimGlobal shares between June 25, 1999, and October 24, 2002 (the time period) were not filed by or on behalf of de Jaray.
7. de Jaray represents he thought systems were in place to ensure insider reports were made on his behalf. However, de Jaray accepts it was his obligation to file insider reports and he should have taken steps to ensure his insider

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reporting was up to date, and that his ownership of securities of AimGlobal was accurately disclosed to the public.

8. As a result of the failure to file insider reports disclosing the changes in his direct or indirect beneficial ownership of, or control or direction over securities of AimGlobal during the time period, de Jaray breached section 87(4) of the *Securities Act*, RSBC 1996, c.418 (the Act) then in force and acted contrary to the public interest.

Misleading Filings

9. During the time period, AimGlobal filed the following four documents, that de Jaray represents advisors to AimGlobal prepared, with the Commission as public disclosure. These documents were signed by de Jaray and, in the case of the Prospectus, other members of the Board of Directors of AimGlobal:

- (a) Information Circular – August 26, 1999;
 - (b) Short Form Prospectus – March 20, 2000;
 - (c) Information Circular – August 14, 2000; and
 - (d) Information Circular – November 8, 2001,
- (collectively the filings).

10. The filings stated that de Jaray owned or had control over 3,723,066 shares of AimGlobal, which was inaccurate. de Jaray thereby breached section 168.1(1)(b) of the Act and acted contrary to the public interest.

Control Block Violation

11. During the time period, the number of AimGlobal shares owned or controlled by de Jaray dropped from about 3,723,066 to about 2,500,000. This represented a drop in ownership or control from about 33.5% of the issued and outstanding shares of AimGlobal down to about 16%.
12. Accordingly, during the time period, de Jaray disposed of shares as a deemed control person holding more than 20% of AimGlobal.
13. A control person notice or report required under sections 136 and 137 of the *Securities Rules*, B.C. Reg. 194/97 (the Rules) was not filed by or on behalf of de Jaray.

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14. By selling AimGlobal shares as a control person without filing any notice or report, de Jaray conducted a distribution in breach of section 61(1) of the Act and acted contrary to the public interest.

Compensation

15. In 2000, auditors of AimGlobal recommended a formal approval procedure be put in place for fees and expenses paid to Anchor's Alpine Promotions Ltd., a company controlled by de Jaray, which provided management and other services to AimGlobal.
16. In 2001, de Jaray and the Board of Directors of AimGlobal disputed whether de Jaray exceeded approved compensation levels for 2000 by some \$400,000. de Jaray, as a director of AimGlobal, should have taken steps to ensure adequate compensation controls were put in place and properly documented, and de Jaray agrees his failure to do so was contrary to the public interest.

Failure to Disclose Receipt of Expensive Automobile

17. A consultant worked for AimGlobal to promote AimGlobal and raise money for AimGlobal.
18. In June 2000, that consultant transferred his ownership of an expensive automobile to de Jaray for no cash consideration from de Jaray, which de Jaray did not disclose to the Board of Directors of AimGlobal.
19. As the consultant was on contract to AimGlobal at the time, and as de Jaray was an officer of AimGlobal who reviewed the consultant's compensation, de Jaray's failure to disclose his receipt of the automobile to the Board of Directors of AimGlobal was contrary to the public interest.

Undertaking

¶ 3 de Jaray undertakes to do the following:

1. comply with the Act and the Rules;
2. pay to the Commission the sum of \$100,000, of which \$35,000 represents costs of the investigation; and
3. not to say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

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Order

¶ 4 de Jaray consents to an order by the Executive Director (the Order) that:

1. under section 161(1)(c) of the Act any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99 do not apply to de Jaray for a period of nine years from the date of the Order, except that de Jaray may rely on the exemption in section 45(2)(7) of the Act to trade in one registered retirement savings plan account and one non-RRSP account, both in de Jaray's own name, through a registered dealer as long as de Jaray provides the registered dealer with a copy of the Order before any trades take place, and except that de Jaray may rely on the exemptions in sections 74(2)(21) and 45(2)(24) to trade securities of a non-reporting issuer for his own account;
2. under section 161(1)(d) of the Act that de Jaray resign any position he holds as a director or officer of a reporting issuer;
3. under section 161(1)(d) of the Act de Jaray is prohibited from becoming or acting as a director or officer of any reporting issuer for the later of:
 - (a) nine years from the date of the Order;
 - (b) the date de Jaray successfully completes a course of study satisfactory to the Executive Director concerning the duties and responsibilities of directors and officers; and
 - (c) the date de Jaray brings his insider reporting up to date to the satisfaction of the Executive Director; and
4. under section 161(1)(d) of the Act de Jaray is prohibited from engaging in investor relations activities for nine years from the date of the Order.

No Restriction

¶ 5 de Jaray acknowledges and accepts that nothing in this settlement agreement precludes or restricts the Commission from pursuing an application under section 157 of the Act arising from any of the conduct dealt with in this agreement.

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Waiver

¶ 6 de Jaray 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 March 6, 2004

¶ 8 “Steven Allan Wylie de Jaray”
Steven Allan Wylie de Jaray

“Ken McEwan”)
Witness Signature)
“Ken McEwan”)
Witness Name (please print))
2600-700 W Georgia)
)
)
Address)
Lawyer)
Occupation)

¶ 9 March 11, 2004

“Stephen J. Wilson”

¶ 10 Stephen J. Wilson
Executive Director