

# 2005 BCSECCOM 701

## Settlement Agreement

### Martin Raymond Hall

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

¶ 1 Martin Raymond Hall (Hall) has settled the following issues with the Executive Director.

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

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

1. Hall is a resident of British Columbia and was registered as a salesperson of Foresight Capital Corporation (Foresight) from January 7, 1999 to July 3, 2002. He is currently registered under the Act to sell mutual funds.
2. Foresight was incorporated in British Columbia on February 1, 1996 and was registered under the Act as a securities dealer from June 9, 1997 to October 12, 2001 and as a mutual fund dealer only from October 12, 2001 to December 15, 2002. Foresight no longer exists as it was struck off the corporate registry on July 25, 2005 for failing to file required documents.
3. While working at Foresight, Hall recommended to two of his clients (the Clients) that they purchase mutual funds using money borrowed against the equity in their homes (the Home Equity Loan). The Home Equity Loan was then used to secure a 2-for-1 loan from another financial institution that was twice the amount of the Home Equity Loan (the 2-for-1 Loan). Hall recommended that his clients invest both the Home Equity Loan and the 2-for-1 Loan in a mutual fund that paid a fixed dividend (the Leveraged Investment).
4. Each of the Clients had some or all of the following characteristics, namely that they:
  - (a) had a low to average net worth;
  - (b) had little or no investment experience and sophistication;
  - (c) had a limited income; and
  - (d) had a low tolerance for investment risk.

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5. The Leveraged Investment was unsuitable and inappropriate for the Clients. The funds used to purchase the Leveraged Investment were “double-leveraged,” in that borrowed money from the equity in the Clients’ homes was used to secure even more borrowed money, all of which was invested in the Leveraged Investment. This investment structure significantly increased the risk to the Clients. When the value of the underlying investment dropped, the Clients were still required to repay both the 2-for-1 Loan and the Home Equity Loan, plus accumulated interest.
6. Hall breached section 48 of the *Securities Rules*, B.C. Reg. 194/97 (the Rules) when he recommended the Leveraged Investment to the Clients.
7. Hall also breached section 14 of the Rules when he signed a client’s name on account and bank transfer documents in order to transfer the client’s 2-for-1 Loan from one financial institution to another.

### **Mitigating Conduct**

- ¶ 3 The Executive Director has taken into account the following facts as factors mitigating the monetary sanctions that are in the public interest. Hall represents and the Executive Director accepts that:
1. Hall has proven to the Executive Director’s satisfaction through financial evidence that he does not have any reasonable prospect of being able to pay to the Commission the sanction amount of \$20,000, which would otherwise be required in the public interest in respect of the misconduct described in this settlement;
  2. Hall personally invested in the Leveraged Investment and lost approximately \$40,000;
  3. A portion of the commissions earned by Hall for the sale of the Leveraged Investments remains unpaid;
  4. The Clients had the opportunity to and did review the Leveraged Investments with other financial advisors prior to purchasing them through Hall; and
  5. Hall received and was following the instructions from his client to transfer the 2-for-1 Loan to the new financial institution, as outlined in para. 3(7), above.

### **Public Interest**

- ¶ 4 Hall acted contrary to the public interest by engaging in the conduct set out above.

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## **Undertakings**

¶ 5 Hall undertakes to do the following:

1. comply with the Act and Rules;
2. not to say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

## **Order**

¶ 6 Hall consents to an order by the Executive Director (the Order) that:

1. under section 161(1)(a) of the *Securities Act*, RSBC 1996, c. 418 Hall comply fully with the Act, the *Securities Rules*, and any applicable regulations, policies and guidelines;
2. under section 161(1)(c) of the Act, that the exemptions described in sections 44 to 47, 74, 75, 98 and 99 of the Act do not apply to Hall for a period of 3 years, except that Hall may trade in securities for his own behalf through a single account with a person registered to trade securities under the Act, provided that he gives a copy of this agreement and the accompanying order to the registrant at the time he opens an account and to anyone who succeeds the registrant;
3. under section 161(1)(f) of the Act that Hall's registration be subject to the following conditions:
  - (a) strict supervision by Hall's employer of all trading activity in Hall's client and personal accounts on a daily basis;
  - (b) a prohibition from recommending to clients the use of leveraged funds to purchase mutual funds; and
  - (c) a prohibition from accepting orders from clients using leveraged funds to purchase mutual funds unless those orders are approved by Hall's employer before entry;

until the later of:

- (i) 12 months from the date of the Order; or
- (ii) the date that Hall completes the Conduct and Practices Handbook Course.

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### Consent to Reciprocal Orders

- ¶ 7 Hall consents to any securities regulator anywhere relying on the facts admitted in this settlement to make orders against him.

### Waiver

- ¶ 8 Hall 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.

- ¶ 9 November 25, 2005

- ¶ 10 “M. Hall”  
Martin Raymond Hall

“Amanda Hall” )  
Witness Signature )  
Amanda Hall )  
Witness Name (please print) )  
1168 Goldstream Ave )  
 )  
Victoria, BC )  
Address )  
Homemaker )  
Occupation )

- ¶ 11 November 25, 2005

“Brenda M. Leong”

- ¶ 12 Brenda M. Leong  
Executive Director