

# 2006 BCSECCOM 281

## Settlement Agreement

**Martin Browne**

*Securities Act, RSBC 1996, c. 418*

¶ 1 Martin Browne has settled the following issues with the Executive Director.

### **Agreed Statement of Facts**

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

### **Background**

1. Browne, a resident of British Columbia, became a registered representative under the *Securities Act*, RSBC 1996, c. 418 (the Act) in January 1984. He was employed by Union Securities Ltd. (Union) from February 1985 to February 1991 and again from June 1993 to March 2002. He is not currently registered under the Act.
2. From 1999 to 2001 (the Review Period), Browne suffered from serious medical conditions that affected his judgment, reliability and ability to concentrate and solve problems.
3. Union is a British Columbia company, with its head office in Vancouver, British Columbia. Union has been a member of the Vancouver Stock Exchange (VSE), now the TSX Venture Exchange, since 1963, a member of the Toronto Stock Exchange since 1991 and a member of the Investment Dealers Association of Canada (IDA) since June 4, 1997. Union has been continuously registered as a broker or investment dealer under section 34 of the Act or equivalent predecessor provisions since 1982.

### **Misconduct**

4. During the Review Period, Browne was the registered representative for US dollar accounts held at Union by the following clients:

AB Investments LLC  
Alpha Ventures Capital Inc.  
Comsight Securities Inc.  
Eastern Consulting Corp.  
Fincross Securities  
Tatiana Kozina  
Langdale Enterprises Ltd.  
Lexington Sales Corporation Ltd.

## 2006 BCSECCOM 281

Houndstooth Ltd.  
White Cloud Investments.

5. None of these clients or the individuals who gave trading and other instructions on the accounts were residents of Canada. The accounts traded primarily securities listed or quoted on the Over-The-Counter Bulletin Board quotation system (OTCBB) in the United States.
6. Browne failed to learn the essential facts relative to these clients, including their identity, creditworthiness, and reputation. Among other things, he failed to:
  - (a) obtain sufficient information to complete new client application forms fully and accurately, including information about his clients' investment objectives and risk tolerance;
  - (b) ascertain the identity of the beneficial owners of the accounts, or of other persons having financial interests in the accounts;
  - (c) request Lexis Nexis searches on the clients and the individuals authorized to provide trading and other instructions for their accounts, as required by Union's policy and procedures manual; and
  - (d) make enquiries concerning the reputation of the clients after he became aware of extensive information, including the Account Characteristics described below, that caused serious doubt about whether they were of good business or financial reputation,

all contrary to section 48(1) of the Rules, VSE Rules F.1.01 and F.2.08, Canadian Venture Exchange (CDNX) Rules F.1.01, F.1.02 and F.2.03, IDA Regulation 1300 and IDA By-Law 29.1.
7. The accounts had some or all of the following characteristics (Account Characteristics):
  - (a) they were introduced or opened by non-residents of Canada with no connection to the geographic location of the branch of Union at which Browne worked;
  - (b) some of the trading authorities were experienced market participants, such as promoters and former stockbrokers;

## 2006 BCSECCOM 281

- (c) two of the trading authorities were convicted of criminal offences involving dishonesty;
  - (d) Browne seldom met personally with the clients;
  - (e) the clients frequently paid full commissions for execution-only services;
  - (f) large denomination stock certificates in OTCBB issuers, often in paper form, restricted and registered in the name of third parties, were frequently delivered into the accounts; one account received approximately 16% of the outstanding shares of an issuer in paper form over a four month period;
  - (g) the accounts purchased and sold high volumes of primarily OTCBB securities, often with no apparent economic purpose;
  - (h) security positions were transferred out of the accounts or liquidated, with the transfers and sale proceeds often directed to third parties;
  - (i) liquidation proceeds were rarely reinvested, except in the same security;
  - (j) the United States Securities and Exchange Commission (SEC) suspended trading in two stocks actively traded in the accounts over concerns about the accuracy of press releases and price increases; and
  - (k) the SEC issued complaints naming several of the issuers whose stocks were traded in the accounts.
8. Browne had a duty, as a gatekeeper to the securities market, to refuse to engage in conduct that would tend to bring the integrity of the capital markets into disrepute and to ensure that he did not assist in, or permit, conduct by clients that would have a similar effect. The Account Characteristics ought to have raised significant client integrity concerns for Browne. Despite this, Browne in his capacity as a registered representative failed to make further enquiries and continued to process orders and transactions in breach of his duties to act as a gatekeeper.
9. Browne failed to observe industry anti-money laundering standards when he failed to take steps to verify the identity of his clients and the individuals authorized to trade in their accounts.

## 2006 BCSECCOM 281

### **Public Interest**

- ¶ 3 Browne's conduct as described in this settlement was contrary to the public interest.

### **Mitigating Factors**

- ¶ 4 Browne received minimal compliance support from Union. This mitigates the sanctions that would otherwise have applied in the public interest.

### **Undertaking**

- ¶ 5 Browne undertakes:
1. to pay to the British Columbia Securities Commission, upon execution of this settlement, the sum of \$50,000;
  2. not to apply for registration in any capacity under the Act from the later of:
    - (a) three years from the date of this settlement, and
    - (b) the date he successfully completes the Canadian Securities Institute's Conduct and Practices Handbook Course, or a course that the Executive Director considers to be equivalent;
  3. that if he reapplies for registration under the Act after complying with the undertaking immediately above, he will:
    - (a) provide any personal medical information that the IDA or Executive Director may reasonably require to determine whether he is suitable for registration,
    - (b) consent to a condition on his registration that he be strictly supervised by an IDA member that agrees to file monthly Strict Supervision Reports, in the form established by the IDA, for three years from the date his registration begins; and
  4. not say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

### **Order**

- ¶ 6 Browne consents to an order (the Order) by the Executive Director that under section 161(1)(a) of the Act, Browne comply fully with the Act, the *Securities Rules*, B.C. Reg. 194/97, and any applicable regulations.

## 2006 BCSECCOM 281

### Consent to Reciprocal Orders

- ¶ 7 Any securities regulator anywhere in Canada may rely on the facts admitted in this settlement solely for the purpose of making an order similar to the one contemplated immediately above.

### Waiver

- ¶ 8 Browne 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 May 9, 2006

“Martin Browne”

- ¶ 10 Martin Browne

Neal A. McLennan )

Witness Signature )

Neal A. McLennan )

Witness Name (please print) )

670 – 999 Canada Place )

)

Vancouver, BC V6C 3E1 )

Address )

Lawyer )

Occupation

- ¶ 11 May 12, 2006

“Brenda M. Leong”

- ¶ 12 Brenda M. Leong  
Executive Director