

2006 BCSECCOM 283

Settlement Agreement

Dominic Busto

Securities Act, RSBC 1996, c. 418

- ¶ 1 Dominic Busto 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, Busto acknowledges the following facts as correct:

Background

Busto, a resident of British Columbia, became a registered representative under the *Securities Act*, RSBC 1996, c. 418 (the Act) in May 1985. He was employed by Union Securities Ltd. (Union) from May 1985 to the present.

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

From 1999 to 2001 (the Review Period), Busto was the registered representative for US dollar accounts held at Union by the following clients:

Anneius Equity Management Corp.
Exim International Enterprises Ltd.
HJS Financial Services Inc.
Marshall Worldwide Limited SA
Polyandrous Trading Group Inc.
Korkor Holdings Ltd.
Korkor Holdings LLC
Jonathan Destler
Stanley Merdinger
Monmouth Consulting Inc.

4. None of these clients or the individuals who gave trading and other instructions on the accounts were residents of Canada. The accounts traded

2006 BCSECCOM 283

primarily securities listed or quoted on the Over-The-Counter Bulletin Board quotation system (OTCBB) in the United States.

5. Busto 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;
 - (b) ascertain the identity of the beneficial owners of the accounts, or of other persons having financial interests in the accounts;
 - (c) request that Union perform 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 information, including the Account Characteristics described below, that should have caused 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.

6. The accounts had some or all of the following characteristics (Account Characteristics):

they were introduced or opened by non-residents of Canada with no connection to the geographic location of the branch of Union at which Busto worked;

large denomination stock certificates in OTCBB issuers, often restricted or registered in the name of third parties, were frequently delivered into the accounts;

the accounts purchased and sold primarily OTCBB securities, in some instances with no apparent economic purpose;

security positions were transferred out of the accounts or liquidated, with the transfers and sale proceeds often directed to third parties; and

liquidation proceeds were rarely reinvested, except in the same security.

2006 BCSECCOM 283

7. Busto had a duty, as a gatekeeper to the securities market, to refuse to engage in conduct which 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 which would have a similar effect. The Account Characteristics ought to have raised significant client integrity concerns for Busto. Despite this, Busto in his capacity as a registered representative failed to make further enquiries and continued to process orders and transactions in breach of his duty to act as a gatekeeper.
8. Busto 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.

Public Interest

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

Mitigating Factors

- ¶ 4 The Executive Director has taken into account the following factors as mitigating the sanctions that might otherwise have applied in the public interest:
1. Union gave Busto minimal compliance support.
 2. Busto cooperated with the Commission's investigation.
 3. Busto has no compliance history with the Commission.

Undertaking

- ¶ 5 Busto undertakes to:
1. pay to the British Columbia Securities Commission, upon execution of this settlement, the sum of \$50,000; and
 2. not say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

Order

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

2006 BCSECCOM 283

2. under section 161(1)(f) of the Act, Busto's registration is subject to the following conditions:

Busto must be closely supervised by an IDA member that agrees to file monthly Close Supervision Reports, in the form established by the IDA, for two years from the date of the Order, and

Busto must successfully complete the Canadian Securities Institute's Conduct and Practices Handbook Course, or a course that the Executive Director considers to be equivalent, within six months of the date of the Order.

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.

2006 BCSECCOM 283

Waiver

¶ 8 Busto 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 April 27, 2006

“Dominic Busto”

¶ 10 Dominic Busto

H.R. Anderson)

Witness Signature)

H. Roderick Anderson)

Witness Name (please print))

3200 Vancouver Centre)

)

650 West Georgia Street, Vancouver BC)

Address)

Barrister & Solicitor)

Occupation

¶ 11 April 28, 2006

“Brenda Leong”

¶ 12 Brenda M. Leong
Executive Director