

2006 BCSECCOM 423

Settlement Agreement

Quantum Financial Service (Canada) Ltd. and Phillip Moy

Securities Act, RSBC 1996, c. 418

- ¶ 1 Quantum Financial Service (Canada) Ltd. (Quantum) and Phillip Moy (Moy) have 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, Quantum and Moy acknowledge the following facts as correct:

Parties

1. Quantum is a British Columbia company that carries on business in Richmond, BC.
2. Quantum has been registered under section 34 of the *Securities Act, RSBC 1996, c. 418* as an Exchange Contracts Dealer since February 1, 1986 and as a Portfolio Manager since October 20, 2003. For its trading, Quantum only acts as an introducing broker.
3. Moy has been employed by Quantum as the chief financial officer since 1997. In this capacity, Moy has been responsible for Quantum's bonding and preparing and approving the records relating to Quantum's financial affairs, including the financial statements and supporting documentation. Moy has not been registered under the Act in any capacity.

Deficiencies

4. From 2001 to June 2005, Quantum failed to:
 - (a) consistently maintain a minimum positive risk adjusted capital of \$75,000, contrary to section 19(4) of the *Securities Rules, B.C. Reg. 194/97*;
 - (b) consistently prepare capital records that accurately reflected Quantum's risk adjusted capital, contrary to section 41(1)(b) of the Rules; and
 - (c) immediately notify the Executive Director in writing when Quantum did not meet its requirements for positive risk adjusted capital, contrary to section 41(2)(a) of the Rules.

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5. Since August 1993, Quantum borrowed a total of \$692,000 from related parties (collectively, Lenders) in order to meet its positive risk adjusted capital requirement. As required by section 25 of the Rules, Quantum and the Lenders entered into agreements that subordinated the Lenders' rights to be repaid to the claims of Quantum's other creditors. Since 2001, Quantum paid certain amounts to the Lenders without obtaining the Executive Director's written permission, as required by the subordination agreements and contrary to section 25 of the Rules.
6. Quantum filed its report of risk adjusted capital for November 2003, May and November 2004 and February 2005 after the required filing deadlines, contrary to section 70(6)(b) of the Rules.
7. From 2001 to June 2005, Moy provided information in records required to be filed with the British Columbia Securities Commission that was misleading, contrary to section 168.1(b) of the Act.
8. The conduct set out in this settlement did not put client accounts at risk.

Mitigating Factors

- ¶ 3 The Executive Director has taken into account that Quantum and Moy fully cooperated with staff of the Commission during the course of this investigation as a factor mitigating the sanctions which would otherwise have applied in the public interest.

Public Interest

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

Undertakings

- ¶ 5 Quantum undertakes:
1. not to allow Moy to prepare, approve or file any information or record that Quantum is required to prepare or file under the Act, the Rules, any regulations or this settlement for a period of 2 years from the date of this settlement; and
 2. to pay \$50,000 to the Commission, upon execution of this settlement, representing:
 - (a) \$40,000 as a monetary payment; and
 - (b) \$10,000 as a contribution towards the costs of this investigation.

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- ¶ 6 Moy undertakes not to prepare, approve or file any information or record that any issuer whose primary business is trading in or advising on securities or exchange contracts is required to prepare or file under the Act, the Rules, any regulations or this settlement for a period of 2 years from the date of this settlement.

Order

- ¶ 7 Quantum and Moy each consent to an order by the Executive Director (Order) that:

1. under section 161(1)(a) of the Act, Quantum and Moy comply fully with the Act, the Rules and any applicable regulations and policies;
2. under section 161(1)(d)(i) of the Act, Moy resign any position that he holds as a director or officer of any issuer whose primary business is trading in or advising on securities or exchange contracts;
3. under section 161(1)(d)(ii) of the Act, Moy be prohibited from becoming or acting as a director or officer of any issuer whose primary business is trading in or advising on securities or exchange contracts:
 - (a) for a period of 2 years from the date of this Order; and
 - (b) until he has successfully completed the Chief Financial Officers Qualifying Examination offered by the Canadian Securities Institute;
4. under section 161(1)(f) of the Act, a condition be imposed on Quantum that it must file, within 30 days following the end of each month, a report of risk adjusted capital for the previous month in the form required under section 70(2) of the Rules, along with a copy of its corresponding financial statements, bank statements and reconciliations for one year from the date of this settlement; and
5. under section 161(1)(f) of the Act, Quantum and Moy be reprimanded.

Consent to Reciprocal Orders

- ¶ 8 Quantum and Moy each consent to any securities regulator in Canada relying on the facts admitted in this settlement to make orders against them.

Waiver

- ¶ 9 Quantum and Moy each waive any right they 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.

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¶ 10 July 10, 2006

¶ 11 “James Ming Shing Ho”)
Quantum Financial Service (Canada) Ltd.
(Signing Authority)

“Patrick Sullivan”)
Witness Signature)
Patrick Sullivan)
Witness Name (please print))
300-1168 Hamilton Street)
Vancouver, B.C.)
Address)
Lawyer)
Occupation)

¶ 12 July 10, 2006

¶ 13 “Phillip Moy”)
Phillip Moy

“Patrick Sullivan”)
Witness Signature)
Patrick Sullivan)
Witness Name (please print))
300-1168 Hamilton Street)
Vancouver, B.C.)
Address)
Lawyer)
Occupation)

¶ 14 July 13, 2006

“L.E. Evans”
¶ 15 L.E. Evans
Acting Executive Director