

# 2008 BCSECCOM 168

## Order

**Kevin Jason Steele**

### Section 161 of the *Securities Act*, RSBC 1996, c. 418

#### **Background**

- ¶ 1 The Executive Director has entered into a Settlement Agreement with Kevin Jason Steele (Steele), a copy of which is attached as Schedule A.

#### **The Order**

- ¶ 2 The Executive Director, considering it to be in the public interest to do so, orders, by consent, that:
1. under section 161(1)(a) of the Act, Steele will comply fully with the Act, the *Securities Rules*, BC Reg. 194/97, and any applicable regulations;
  2. under section 161(1)(b) of the Act Steele will permanently cease trading in and be prohibited from purchasing any securities or exchange contracts, except that he may trade in one account in his own name through a registered representative if he provides a copy of this Order to the registered representative before any trade; and
  3. under section 161(1)(d)(i), (ii) and (v) of the Act, Steele will resign any position he may hold, and be permanently prohibited from becoming or acting, as a director or officer of any issuer and be permanently prohibited from engaging in investor relations activities.

- ¶ 3 March 31, 2008

Langley E. Evans

Langley E. Evans Acting For:

- ¶ 4 Brenda M. Leong  
Executive Director

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Schedule "A"

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## Settlement Agreement

Kevin Jason Steele

*Securities Act, RSBC 1996, c. 418*

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Kevin Jason Steele (Steele) agree as follows:

### **Agreed Statement of Facts**

1. Steele is a resident of British Columbia and was registered under the *Securities Act*, RSBC 1996, c. 418 as a mutual funds salesperson between 1996 and 2000. Steele was not registered in any capacity under the Act at the time of the misconduct described in this Settlement Agreement.

### ***Commodity Futures Contract Trading Scheme***

2. Between October 2002 and May 2005, Steele, and others acting on his instructions (the Associates), solicited investors (Investors) to enter into investment contracts with Steele whereby:
  - (a) Investors agreed to give money to Steele which he then pooled in an account at a United States brokerage firm (the Account);
  - (b) Steele used the money in the Account to trade commodity futures contracts; and
  - (c) Steele promised to share with Investors the profits he earned from his trading business, which he told Investors would result in returns on their investments of approximately 8% per month(the Securities).
3. No prospectus was ever filed for the Securities and none of the exemptions under the Act applied to their distribution.
4. Steele misrepresented to his Associates and Investors that he was a very successful commodity futures contract trader. To support this misrepresentation he created fictitious account statements that showed false trading profits. He gave these statements to his Associates in order to create and maintain the impression that he was a successful trader. On Steele's instructions, his Associates used this false information to entice Investors to invest.

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5. As a result of Steele's misrepresentations, 226 Investors invested approximately US\$8.4 million with Steele. Of the Investors, 174 are British Columbia residents who gave Steele a total of approximately US\$6.8 million.
6. Investors lost a total of approximately US\$7 million as a result of investing in Steele's trading business. Included in these losses were approximately US\$1.9 million of Investors' money he misappropriated for his personal use. Of this amount, Steele spent approximately:
  - (a) US\$386,000 on travel, accommodation and dining;
  - (b) US\$256,000 on jewelry and clothing for himself and his fiancée;
  - (c) US\$128,000 on home furnishings and electronics;
  - (d) US\$87,000 on gambling and other entertainment expenditures; and
  - (e) US\$850,000 on miscellaneous personal expenses.

He also gave his fiancée US\$150,000.

7. Steele used approximately US\$1.8 million of Investors' principal investments to make 'Ponzi' payments to Investors and his Associates. Steele misrepresented to Investors and his Associates that these payments represented profits on their investments or commissions on profits earned for soliciting Investors on Steele's behalf.
8. On November 22, 2005, the United States District Court for the Northern District of Illinois Eastern Division found that, through the conduct described in this Settlement Agreement, Steele created false statements and defrauded investors, contrary to the United States *Commodity Exchange Act*. The court ordered Steele to pay investors approximately US\$7.4 million in restitution and ordered a civil monetary penalty of US\$6.2 million against him.
9. On May 16, 2006, Steele pleaded guilty in the Provincial Court of British Columbia to one count of fraud over \$5,000, contrary to section 380 of the Criminal Code, respecting the conduct described in this Settlement Agreement. On June 19, 2006, Steele was sentenced to six years in prison on this matter.

### ***Misconduct***

10. In connection with his commodity futures contract trading scheme, Steele:

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- (a) traded in securities without being registered under the Act, contrary to section 34(1) of the Act;
- (b) distributed securities without having filed a prospectus, contrary to section 61 of the Act;
- (c) made statements that he knew, or ought to have known, were misrepresentations, contrary to section 50(1)(d) of the Act; and
- (d) participated in a series of transactions that he knew, or ought reasonably to have known, perpetrated a fraud, contrary to sections 57(b) and 57.1(b) of the Act.

### ***Public Interest***

11. Steele acted contrary to the public interest by engaging in the conduct set out above.

### ***Inability to Pay***

12. Steele has no prospect of paying the US\$13.6 million court judgement against him and there is no reasonable prospect of him paying \$250,000 that would otherwise be assessed in the public interest for the misconduct described in this settlement.

### **Order**

¶ 2 The Executive Director will issue an order (the Order) that:

- 1. under section 161(1)(a) of the Act, Steele will comply fully with the Act, the *Securities Rules*, BC Reg. 194/97, and any applicable regulations;
- 2. under section 161(1)(b) of the Act Steele will permanently cease trading in and be prohibited from purchasing any securities or exchange contracts, except that he may trade in one account in his own name through a registered representative if he provides a copy of the Order to the registered representative before any trade; and
- 3. under section 161(1)(d)(i)-(iii) of the Act, Steele will resign any position he may hold, and be permanently prohibited from becoming or acting, as a director or officer of any issuer and be permanently prohibited from engaging in investor relations activities.

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### Consent to Reciprocal Orders

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

### Waiver

- ¶ 4 Steele 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.

### Counterpart

- ¶ 5 This Settlement Agreement may be executed in counterpart or by facsimile execution and all such counterparts of executed copies or faxed copies shall be read or construed together as if they formed one originally executed document.
- ¶ 6 March 28, 2008

- ¶ 7 Kevin Steele  
Kevin Jason Steele

Graham Steele )  
Witness Signature )  
Graham Steele )  
Witness Name (please print) )  
901 – 1575 Beach Avenue )  
Vancouver, BC )  
Address )  
Self Employed )  
Occupation )

- ¶ 8 March 31, 2008

Langley E. Evans

Langley E. Evans Acting For:

- ¶ 9 Brenda M. Leong  
Executive Director