

2009 BCSECCOM 141

Settlement Agreement

**661946 B.C. Ltd (d.b.a. Wellspring Capital Group Ltd.) and
661948 B.C. Ltd. (d.b.a. Springpay Systems)**

Securities Act, RSBC 1996, c. 418

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director), 661946 B.C. Ltd. (Wellspring) and 661948 B.C. Ltd. (Springpay) agree as follows:

Agreed Statement of Facts

1. Wellspring and Springpay are British Columbia corporations that had offices in Vancouver, British Columbia. Neither of them has ever been registered or filed a prospectus under the *Securities Act, RSBC 1996, c. 418* (the Act).
2. Wellspring and Springpay were dissolved for failing to file records with the Ministry of Finance in March 2006.
3. Blake Aaron Prater (Prater) was a director of both Wellspring and Springpay.
4. From March 1, 2003 to September 23, 2003 (the Relevant Period), Wellspring offered investments to residents of British Columbia and Canada that purportedly provided income to cover the investors' expenses (the Programs), as follows:
 - (a) *CarDeal*
after securing independent financing for a new vehicle, CarDeal investors were required to invest the equivalent of four times their monthly vehicle payment, plus GST, with Wellspring. The CarDeal investment purported it would then pay the investor a monthly payment equal to the monthly car payment for the term of the investor's independent financing agreement;
 - (b) *Rent Relief*
investors were required to invest the equivalent of three times their monthly rent payment, plus GST, with Wellspring. The Rent Relief investment purported that it would then pay the investor, for 24 months, a monthly payment equal to his or her monthly rent;

2009 BCSECCOM 141

- (c) *Pay Roll Plan (PRP)*

after determining the total of their weekly payroll deductions, investors were required to invest the equivalent of four times this amount, plus GST, with Wellspring. The PRP investment purported that it would then pay the investor, for 43 weeks, a weekly payment equal to his or her weekly payroll deductions; and
 - (d) *Business Expense Reduction Program (BERP)*

after determining their weekly business expenses, investors were required to invest the equivalent of four times this amount, plus GST, with Wellspring. The BERP investment purported that it would then pay the investor, for 43 weeks, a weekly payment equal to his or her weekly business expenses.
5. Wellspring advertised the Programs largely through word-of-mouth. Some potential investors also found out about the Programs on a website that described similar programs in the United States. Potential investors were told that the Programs generated the promised returns through legitimate business transactions.
 6. Investments in the Programs were securities as defined in the Act.
 7. During the Relevant Period, 38 residents of British Columbia and 153 residents of other parts of Canada invested approximately \$570,000 in the Programs (collectively, the Canadian Investors).
 8. Canadian Investors made payments for their investments through accounts managed by Springpay. Both Wellspring and Springpay maintained bank accounts in British Columbia in which they held Canadian Investors' funds.
 9. On September 23, 2003, the Commission issued orders freezing investor funds in two bank accounts in British Columbia (Freeze Orders). Wellspring and Springpay each maintained one of the accounts subject to the Freeze Orders, and approximately \$440,000 plus accrued interest remains in those accounts (Frozen Funds).
 10. Prater pleaded guilty in the United States District Court, District of Connecticut, to one count of securities fraud and one count of conspiracy to engage in certain monetary transactions involving the proceeds of securities fraud. On March 30, 2007, Prater was sentenced to 10 years imprisonment. Prater's criminal convictions in the United States were for activities that were substantially the same as, and related to, those carried out by Wellspring and Springpay in Canada.

2009 BCSECCOM 141

11. Wellspring and Springpay employed Georgee Lee Low (Low) as office manager. At the behest of Prater, she became a director of both companies. She also personally invested in the Programs.
12. At the request of Commission staff, Low identified the Canadian Investors, provided account reconciliations for them, and facilitated the restoration of Wellspring and Springpay as British Columbia corporations.

Misconduct

Trading and Distribution of Securities

13. Wellspring and Springpay, directly and indirectly solicited, facilitated and negotiated investments in the Programs by Canadian Investors without being registered and without having filed a prospectus, contrary to sections 34(1) and 61 of the Act.

Fraud

14. Wellspring representatives told Canadian Investors that the Programs would generate the promised returns through sophisticated investments, including overnight transactions with high interest rates. These representations were untrue. There was no external source of income for the Programs. Instead, Wellspring and Springpay made scheduled payments to Canadian Investors with subsequent investor funds.
15. Wellspring and Springpay operated the Programs as Ponzi schemes, contrary to sections 57(b) and (c) of the Act.

Public Interest

16. Wellspring and Springpay acted contrary to the public interest by engaging in the conduct set out above.

Undertakings

17. Wellspring and Springpay undertake to:
 - (a) admit in any civil proceedings initiated by the Civil Forfeiture Office (CFO) against the Frozen Funds that they are proceeds of unlawful activity, as defined in the *Civil Forfeiture Act* [SBC 2005] c. 29;
 - (b) consent to an order by the Supreme Court of British Columbia that gives the CFO custody of the Frozen Funds; and
 - (c) consent to such variation of the Freeze Orders as may be required to enable the CFO to make restitution to the Canadian Investors.

2009 BCSECCOM 141

Inability To Pay

18. The Frozen Funds are the only assets of Wellspring and Springpay. Upon the CFO taking custody of those funds, there is no reasonable prospect of Wellspring or Springpay paying any part of the \$500,000 that each would otherwise be required to pay in the public interest for the misconduct described in this settlement.

Order

- ¶ 2 The Executive Director will issue an order that Wellspring and Springpay both cease trading in and be prohibited from purchasing any securities under section 161(1)(b) of the Act.

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 Wellspring and Springpay 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.

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 6, 2009

- ¶ 7 “Georgee Low”
661946 B.C. Ltd. (Wellspring

“Sean Boyle”)
Witness Signature)
Sean K. Boyle)
Witness Name (please print))
2600 – 595 Burrard Street)
Vancouver, BC)
Address)
Lawyer)
Occupation)

2009 BCSECCOM 141

¶ 8 March 10, 2009

¶ 9 “Georgee Low”
661948 B.C. Ltd. (Springpay)

“Sean Boyle”)
Witness Signature)
Sean K. Boyle)
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2600 – 595 Burrard Street)
Vancouver, BC)
Address)
Lawyer)
Occupation)

¶ 10 March 10, 2009

“Brenda M. Leong”

¶ 11 Brenda M. Leong
Executive Director