

# 2009 BCSECCOM 626

## Settlement Agreement

Gaele McErvel

*Securities Act, RSBC 1996, c. 418*

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Gaele McErvel (McErvel) agree as follows:

### **Agreed Statement of Facts**

1. McErvel is a resident of Golden, British Columbia. She is a 66 year old retired school teacher.
2. Solara Technologies Inc. (Solara) is a British Columbia company with an office in Port Moody, BC. Solara's stated business was to develop, promote and sell technology for the vending machine and information kiosk industry.
3. McErvel and her family were investors in Solara and its predecessor companies. McErvel believed in Solara's business plan and management's ability to execute it.
4. From approximately November 2004 to September 2006 (the Relevant Period), McErvel helped Solara solicit investors to purchase Solara securities, some of whom were McErvel's friends or acquaintances from Golden.
5. During the Relevant Period, McErvel was not registered to trade securities under the Act.
6. Solara has never filed a prospectus to distribute its securities under the Act.
7. McErvel helped distribute Solara securities to 34 investors for proceeds of approximately \$475,000 (the Distributions). Although Solara purported to rely on certain exemptions under the Act to allow for the Distributions, the exemptions claimed did not apply in the circumstances.

### **Misconduct**

8. By helping to solicit and facilitate the Distributions, McErvel:
  - (a) traded in securities without being registered, contrary to section 34(1) of the Act; and
  - (b) distributed securities without filing a prospectus, contrary to section 61 of the Act.

## 2009 BCSECCOM 626

### *Mitigating Factors*

9. McErvel and her family invested approximately \$213,000 in Solara and its predecessor companies. They have not recovered any of that investment.
10. McErvel did not receive any benefit in exchange for her involvement in soliciting and facilitating the Distributions.
11. At the time of the Distributions, McErvel believed that Solara's management and corporate counsel were taking the necessary steps to ensure that the Distributions were made in accordance with any legal requirements.
12. Once McErvel became concerned with Solara's conduct, she came forward with her concerns to the BCSC.

### **Order**

- ¶ 2 The Executive Director will issue an order that (the Order):
- a. under section 161(1)(b) of the Securities Act, RSBC 1996, c. 418, McErvel will cease trading in and be prohibited from purchasing any securities, except that she may trade and purchase securities through one account in her own name through a registered representative if she provides a copy of this Order to the registered representative before any trade;
  - b. under section 161(1)(d)(i) and (ii) of the Act, McErvel be prohibited from becoming or acting as a director or officer of any issuer;
  - c. under section 161(1)(d)(iv) of the Act, McErvel be prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
  - d. under section 161(1)(d)(v) of the Act, McErvel be prohibited from engaging in investor relations activities
- for a period of three years from the date of the Order.

### **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 a similar Order.

## 2009 BCSECCOM 626

### Waiver

- ¶ 4 McErvel waives any right she 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 November 4, 2009

“G. McErvel”

- ¶ 7 Gaele McErvel

“M. Danielsen” )  
Witness Signature )  
Michael L. Danielsen )  
Witness Name (please print) )  
647 Plaza Laredo )  
Lake Havasu City, AZ )  
Address )  
Retired )  
Occupation )

- ¶ 8 November 6, 2009

“L.E. Evans”

- ¶ 9 Langley E. Evans  
Acting Executive Director