

# 2010 BCSECCOM 46

## Settlement Agreement

### Cheryl Anne Kylo

#### *Securities Act, RSBC 1996, c. 418 (the Act)*

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Cheryl Anne Kylo (Cheryl Kylo) agree as follows:

#### **Agreed Statement of Facts**

##### ***Background***

1. Cheryl Kylo is a resident of North Vancouver, British Columbia.
2. Mercury Capital S.A. (Mercury) was a Turks and Caicos company. Steven Peter Kylo (Steve Kylo), Cheryl Kylo's father-in-law, was the authorized representative of Mercury.
3. Mercury offered for sale a security that purported to allow investors to participate in a high-yield non solicitation feeder program. Mercury promised to pay investors 25% per month for four months with the return of all principal at the end of the fourth month (the Mercury Security).
4. Between June and August 2005, Mercury sold at least USD \$534,572 of its securities to at least 22 investors.
5. Mercury has never filed a prospectus to distribute its securities under the Act.
6. Cheryl Kylo participated in the distribution of the Mercury Security. She communicated with investors on behalf of Steve Kylo, processed paperwork for the investment and signed primary investment documents for 5 investors, who collectively invested USD \$100,000.
7. At the time of the distribution of the Mercury Security, Cheryl Kylo was registered under the Act as a salesperson restricted to trading mutual funds. She was not registered to trade the Mercury Security.
8. Cheryl Kylo invested USD \$5,000 of her own funds in the Mercury Security and has not recovered any money on her investment.
9. Due to the Commission's investigation into her role in the distribution of the Mercury Security, Cheryl Kylo has spent 17 months without registration and

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has had her license restricted by the requirement of strict supervision for a further 15 months.

### ***Misconduct***

10. By participating in the distribution of the Mercury Security, Cheryl Kylo:

- (a) traded in securities without being registered, contrary to section 34(1) of the Act; and
- (b) distributed securities for which a prospectus had not been filed, contrary to section 61 of the Act.

### ***Public interest***

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

### **Order**

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

pursuant to section 161(1)(b) of the Securities Act, RSBC 1996, c. 418, for four years from the date of the order Cheryl Kylo cease trading in any securities for which exemptions to the Act are relied on or available, except that she may trade such securities:

- (a) in the course of her employment with a dealer registered under the applicable securities legislation, and
- (b) only with or to the clients of that dealer.

### **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.

### **Waiver**

¶ 4 Cheryl Kylo 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.

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### 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 January , 2010

¶ 7 Cheryl Anne Kylo "Cheryl Anne Kylo"

"M. Vesely"  
Witness Signature )

Marko Vesely )  
Witness Name (please print) )  
1600 – 925 Georgia St. W. )  
Vancouver, BC )  
Address )  
Lawyer )  
Occupation )

¶ 8 January 20, 2010

"M. Eady"

¶ 9 Martin D. Eady  
Acting Executive Director