

# 2010 BCSECCOM 313

## Settlement Agreement

**Basil Roy Botha**

*Securities Act, RSBC 1996, c. 418*

The Executive Director of the British Columbia Securities Commission (the Executive Director) and Basil Roy Botha (Botha) agree as follows:

### **Facts**

¶ 1 Botha is a resident of British Columbia and a former registrant under the Act.

### **Misconduct**

¶ 2 Between May 2006 and September 2007 (Relevant Period), Botha acted as an unregistered adviser for at least eleven residents of British Columbia (Investors), contrary to section 34(1)(c) of the Act. In particular, Botha:

1. managed online brokerage accounts for some of the Investors; and
2. charged the Investors on a fee for profit basis.

¶ 3 As a result of the conduct outlined above, Botha received \$64,165.82 in fees from the Investors (Fees).

### **Undertakings**

¶ 4 Botha undertakes to:

1. reimburse the Investors by returning the Fees;
2. within 90 days of the date of the Order defined in paragraph 5 provide the Executive Director:
  - (a) an accounting of the portion of the Fees provided to each of the Investors; and
  - (b) proof that the Fees have been returned to the Investors; and

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3. pay \$10,000.00 to the British Columbia Securities Commission in respect of settlement of this matter which sum is due and payable immediately without further demand.

### **Order**

¶ 5 The Executive Director, considering it to be in the public interest, will issue an order (the Order) that:

1. under section 161(1)(a) of the *Securities Act*, RSBC 1996,c. 418 Botha will comply fully with the Act, the *Securities Rules*, BC Reg. 194/97, and any applicable regulations; and
2. under section 161(1)(d)(iii) of the Act, Botha will be prohibited from becoming or acting as an adviser for a period of three years from the date of the Order.

### **Consent to Reciprocal Orders**

¶ 6 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**

¶ 7 Botha 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**

¶ 8 This Settlement Agreement may be executed in counterpart or by facsimile execution and all such counterparts of executed copies or faxed copies shall be

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read or construed together as if they formed one originally executed document.

¶ 9 May 17, 2010

¶ 10 Basil Roy Botha  
*Basil Roy Botha*

Carey Veinotte )  
Witness Signature )  
Carey Veinotte )  
Witness Name (please print) )  
300 – 1168 Hamilton Street )  
Vancouver, BC )  
Address )  
Barrister & Solicitor )  
Occupation )

¶ 11 June 1 2010

Paul C. Bourque

¶ 12 Paul C. Bourque, Q.C.  
Executive Director